University of London

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REPORTS

FROM

COMMITTEES:

EIGHT VOLUMES.

— *(3.)* —

PRIVATE BILL COSTS BILL;
REFEREES ON PRIVATE BILLS;
PRIVATE BILLS (COMMITTEE OF SELECTION);
RAILWAY AND CANAL BILLS;
KITCHEN AND REFRESHMENT ROOMS (HOUSE OF COMMONS);
AZEEM JAH (SIGNATURES TO PETITIONS);
VALUATION OF LANDS AND HERITAGES (SCOTLAND).

Session

7 *February*—— 6 *July* 1865.

VOL. VII.

1865.

REPORTS FROM COMMITTEES:

1865.

EIGHT VOLUMES:—CONTENTS OF THE

THIRD VOLUME.

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MINUTES OF PROCEEDINGS

OF THE

SELECT COMMITTEE

ON THE

PRIVATE BILL COSTS BILL.

Ordered, by The House of Commons, *to be Printed,*
6 *March* 1865.

Mercurii, 22° *die Februarii*, 1865.

Ordered, That the Private Bill Costs Bill be committed to a Select Committee.

Veneris, 24o *die Februarii*, 1865.

Ordered, THAT the Committee do consist of the following Members:—

Mr. Scourfield.	Mr. Roebuck.
Mr. Milner Gibson.	Mr. Denman.
Lord Hotham.	Mr. Pugh.
Colonel Wilson Patten.	Mr. Caird.
Mr. Lowe.	Mr. Arthur Mills.

Ordered, THAT Five be the Quorum of the Committee.

Lunæ, 27° *die Februarii*, 1865.

Ordered, THAT Mr. Watkin be added to the Committee.

PROCEEDINGS OF THE COMMITTEE.

Lunæ, 27° die Februarii, 1865.

MEMBERS PRESENT:

Mr. Scourfield.	Mr. Lowe.
Mr. Arthur Mills.	Mr. Roebuck.
Lord Hotham.	Mr. Milner Gibson.
Mr. Pugh.	

Mr. Scourfield was called to the Chair.

The Committee deliberated.

[Adjourned to Wednesday, 1st March, at Two o'clock.

Mercurii, 1° *die Martii*, 1865.

MEMBERS PRESENT:

Mr. SCOURFIELD in the Chair.

Lord Hotham.	Mr. Denman.
Mr. Pugh.	Mr. Lowe.
Mr. Caird.	Colonel Wilson Patten.
Mr. Watkin.	Mr. Roebuck
Mr. Milner Gibson.	Mr. Arthur Mills.

Preamble of the Bill read, and postponed.

Clause 1.—Amendment made.—Amendment proposed in line 3, after the word "Report," to leave out the words "that the proposed scheme was unfounded or vexatious," in order to insert the words "with respect to all or any of the petitioners against the Bill, that such petitioner or petitioners has or have been vexatiously subjected to expense in defending his or their private rights proposed to be interfered with by the Bill"—(Mr. *Milner Gibson*)—instead thereof.—Question, That the words proposed to be left out stand part of the clause, put, and negatived.—Question, That those words be there inserted.—Amendment proposed, after the word "been," to insert the words "unreasonably or"—(Mr. *Denman*).—Amendment proposed to the proposed amendment, to leave out the word "or," in order to insert the word "and"—(Mr. *Watkin*)—instead thereof.—Question put, That the word "or" stand part of the proposed amendment.—The Committee divided:

Ayes, 7.	Noes, 3.
Mr. A. Mills.	Mr. Pugh.
Mr. Caird.	Mr. Watkin.
Mr. Denman.	Mr. Milner Gibson.
Mr. Lowe.	
Lord Hotham.	
Colonel Wilson Patten.	
Mr. Roebuck.	

Question, That the words "unreasonably or" be inserted in the proposed amendment, put, and agreed to.—Question, That the words "with respect to all or any of the petitioners against the Bill, that such petitioner or petitioners has or have been unreasonably or vexatiously subjected to expense in defending his or their private rights proposed to be interfered with by the Bill," be inserted in the clause, put, and agreed to.

Another amendment proposed at the end of the last amendment, to add the words, "and such Report be adopted by the House"—(Mr. *Watkin*).—Question put, That those words be there added.—The Committee divided:

Ayes, 2.	Noes, 8.
Mr. Pugh.	Mr. A. Mills.
Mr. Watkin.	Mr. Caird.
	Mr. Denman.
	Mr. Lowe.
	Lord Hotham.
	Colonel Wilson Patten.
	Mr. Milner Gibson.
	Mr. Roebuck.

Further amendments made.—Another amendment proposed, at the end of the clause, as amended, to add the words "or such a sum for costs as the Committee shall name, with the consent of the parties affected"—(Mr. *Denman*).—Question, That those words be there added, put, and agreed to.—Clause, as amended, agreed to.

Clause 2, disagreed to.

MS. clause in lieu thereof, brought up, read 1° and 2°, and added to the Bill.

Clause 3, amended, and agreed to.

Clause 4, agreed to.

Clause 5, read, amended, and postponed.

Clause 6, amended, and agreed to.

[Adjourned to Friday, 3d March, at Three o'clock.

Veneris, 3° *die Martii*, 1865.

MEMBERS PRESENT:

Mr. SCOURFIELD in the Chair.

Colonel Wilson Patten.	Lord Hotham.
Mr. Milner Gibson.	Mr. Pugh.
Mr. Arthur Mills.	Mr. Lowe.

The Committee deliberated.

Clause 5, further amended, and agreed to.

MS. Clause:—"In such action it shall be sufficient in Scotland for the Pursuer to allege that the Defender is indebted to him in the sum mentioned in the said certificate under the like proviso, in regard to the validity of the certificate,"—brought up, read 1° and 2°, and added to the Bill.

Preamble amended, and agreed to.

Ordered, To Report.

MINUTES OF PROCEEDINGS

OF THE

SELECT COMMITTEE

ON THE

PRIVATE BILL COSTS BILL.

Ordered, by The House of Commons, *to be Printed,*
6 *March* 1865.

104.

Under 1 *oz.*

REPORT

REFORM CLUB
PALL MALL

FROM THE

SELECT COMMITTEE

ON

REFEREES ON PRIVATE BILLS;

TOGETHER WITH THE

PROCEEDINGS OF THE COMMITTEE

AND

MINUTES OF EVIDENCE.

Ordered, by The House of Commons, *to be Printed,*
21 *June* 1865.

Martis, 30° die Maii, 1865.

Ordered, THAT a Select Committee be appointed to inquire into the operation of the Court of Referees on Private Bills.

Committee nominated of:—

Colonel Wilson Patten.
Mr. Dodson.
Mr. Milner Gibson.
Mr. Lowe.
Mr. Edward Pleydell Bouverie.
Lord Robert Cecil.
Lord Stanley.
Mr. Ingham.
Mr. Scholefield.
Mr. Woodd.
Mr. Bonham-Carter.
Mr. Ennis.
Mr. Thompson.
Mr. Gathorne Hardy.
Sir John Shelley.

Ordered, THAT Five be the Quorum of the Committee.

Mercurii, 7° die Junii, 1865.

Ordered, THAT the Committee have power to send for Persons, Papers, and Records.

Mercurii, 21° die Junii, 1865.

Ordered, THAT the Committee have power to report their Observations, together with the Minutes of Evidence taken before them, to The House.

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REPORT.

THE SELECT COMMITTEE appointed to inquire into the OPERATION of the COURT of REFEREES on PRIVATE BILLS;—HAVE considered the matters to them referred, and have agreed to the following REPORT:—

IN considering how far the system of Referees has worked satisfactorily, your Committee has directed its inquiry principally to the three following heads:—

First. The saving of time of Members of the House, which was the main object of the original institution of the Court.

Secondly. The general effect which the court has produced on the dispatch of private business.

Thirdly. The saving of expense to the promoters and opponents of Private Bills.

As regards the first of these heads, it has been difficult to trace out with any great exactness the effect produced, but it is clearly shown by tabular statements, corroborated by the general tenor of the evidence, that in the aggregate, and supposing that the nature of the private business before Parliament has been of an average character during the last four Sessions, the court has been productive of considerable saving of time to the Members of the House.

Owing to the amount of private business still remaining to be disposed of in the present Session, it has been impossible to compare the whole time occupied in the consideration of private business with that of previous Sessions; but, taking the period previous to 31st of May in each Session, it appears that, in 1862, 104 opposed Private Bills were disposed of by Select Committees in 386 days, being at the average rate of 3·45 days to each Bill.

In 1863, down to the same period, 85 Bills were disposed of in 251 days, or at the average rate of 2·86 days to each Bill.

In 1864, 128 Bills in 344 days, or an average of 2·86 days to each Bill.

In the present Session, 191 Bills have occupied only 417 days, being an average of 2·13 days to each Bill.

The above averages would show that considerable time occupied in the consideration of opposed Private Bills has been saved to Members in the present Session.

Although other causes may in some slight degree have contributed to this result, it has been clearly proved by the evidence that it is in a great degree owing to the following circumstances:—

First. The sittings of the Court of Referees have been much longer in each day than those of Select Committees of the House.

Secondly. Owing to the nature of the court, and its attention being confined exclusively to matters of fact, its investigations have been conducted with greater expedition and efficiency.

Thirdly. Several Bills, not included in the above statement, have been virtually decided by the Referees, and not subsequently submitted to a Select Committee, having been abandoned or become unopposed.

Fourthly. The question of *locus standi*, which in previous Sessions occupied a portion of the time of Select Committees, has in the present Session devolved on the Court of Referees.

With regard to the second head of inquiry, namely, the despatch of business, the above considerations apply generally. It has, however, been proved to Your Committee that several parties have been put to inconvenience, and delay caused, especially on the first institution of the Court, owing to the necessity of having many cases put down for hearing each day, in order to keep the general business of the court in advance of that submitted to the Committees; but there is every reason to suppose that the experience of the present Session would enable the court to avoid this defect for the future, and Your Committee would direct attention to the evidence of the Chairman of Ways and Means, Mr. Hassard and Mr. Adair on this point.

Your Committee is of opinion that under the third head of inquiry, that of expense to parties promoting or opposing Bills, the Court of Referees has been, on the whole, productive of economy. Additional expense has no doubt been caused by the delays adverted to above. The double inquiry itself has also been the cause of an additional expense in some instances, especially in the cases of small undertakings, but Your Committee has every reason to believe that the instances of increased expense are exceptional.

Various suggestions have been made with a view to increasing the efficiency of the court, to still further expediting the business, and to remedying some of the defects not unnaturally incident to the first formation of such a tribunal.

The regulation which confines the number of counsel to one in each case is much complained of by some, while it is spoken of by others as a great improvement. It is alleged that a barrister is at times over-tasked by having to deal with many opponents, each defended by counsel; but on the other hand, it was represented to the Committee that great advantage had been derived from the continued attention of the same counsel to the whole of the case before the Referees. On the whole, Your Committee recommend that if the Court of Referees should be continued as it is, the present rule should stand, but that it should be open to parties to apply to the court for permission to appear by more than one counsel.

It has also been recommended that some of the matters referred to the decision of the Referees should be stated in greater detail by the promoters; as for instance, that the estimate of the cost of works should be given under more numerous heads than at present. An engineer of considerable experience, submitted to the Committee the form of an estimate, which Your Committee think comprises the principal heads under which such a document should be delivered in, at the commencement of the investigation.

It has been suggested by some of the witnesses that the Referees should have the power of considering the engineering statistics of alternative lines of railway, which has hitherto been exercised by Committees on opposed Bills; and that they should express their opinion of the comparative engineering merits of competing lines.

Proof has been given that Select Committees have occasionally entertained doubts as to the exact line of demarcation between them and the Referees, and that counsel have in some instances found difficulty in advising their clients as to the tribunal before which they ought to appear. Such a defect is, no doubt, in some degree incident to a double inquiry; but Your Committee believe that the experience of the present Session, and perhaps some amendment of the Standing Orders, will obviate to a considerable extent the objection.

Should it be determined to continue the court as at present constituted, the above are Amendments to which Your Committee would direct the attention of the House. In the course of their investigation, however, the defects of a double inquiry were put forward with much earnestness, and some even of the Referees appear to be of opinion that if the main objects of the institution,

institution, namely, economy of time, could be attained without these defects, it would be a great advantage.

There is no doubt that a double inquiry is contrary to the common rules of jurisprudence. It is also liable to the objection that some time must be wasted, and expense incurred, in the change of tribunal; and it has been justified in the present instance only by the absolute necessity of finding some remedy for the still greater waste of time incident to the former system.

Your Committee would call attention to the following suggestions made by one of the witnesses called before them:

1st. That the Chairman of Ways and Means, the Speaker's Counsel, and some additional Member of the House, should form a Court of Referees, to which should be referred all cases of *locus standi.*

2d. That two Members of the House should preside over two courts, assisted by two Members each, not necessarily Members of the House, and that the sittings of these courts should be from eleven to five o'clock each day during the Session of Parliament. That the Chairman of Ways and Means, the Chairman of the Chairmen's Panel, and one other Member should, at the commencement of each Session, select such Railway or other Bills as, in their opinion, ought to go before the Referees, and that the latter should consider the whole of each Bill referred to them, and not be confined, as at present, to engineering and estimates, and report their recommendations for adoption to the House.

The benefits of such a tribunal would be as follows:

The defects incident to a double inquiry would be altogether obviated.

The sittings of the court would be of six hours instead of four, and the despatch of business at least in proportion.

Such a court would afford valuable assistance to the House in transacting the annually increasing business of each Session.

On the whole, Your Committee recommends that the Court of Referees should be continued, subject to the alterations above adverted to, with respect to detailed estimates and the consideration of the statistics of alternative and competitive lines of railway; but in all cases, with consent of parties, the Referees may hear evidence and report upon the whole Bill to the House.

Your Committee also recommends that when the Referees shall have reported, in the case of any Bill, that the Estimate is insufficient, or the engineering inefficient for the proposed object, the Bill shall not be referred to a Committee unless the House make an order to that effect.

Your Committee further recommends that, inasmuch as the two Members who preside over the Courts will be called upon to devote their time almost exclusively to the duties of their office, salaries should be attached thereto. They also think that they should be selected, as at present, by the Speaker, as should also the other members of the tribunal, who, if not Members of the House, should also be salaried officers.

21 *June* 1865.

PROCEEDINGS OF THE COMMITTEE.

Jovis, 1° *die Junii*, 1865.

MEMBERS PRESENT:

Col. Wilson Patten.	Mr. Woodd.
Mr. Milner Gibson.	Mr. Thompson.
Mr. Gathorne Hardy.	Mr. Ennis.
Mr. Ingham.	Mr. Lowe.

Colonel WILSON PATTEN was called to the Chair.

The Committee deliberated.

[Adjourned to Thursday, 8th June, at Twelve o'clock.

Jovis, 8° *die Junii*, 1865.

MEMBERS PRESENT:

Colonel WILSON PATTEN in the Chair.

Mr. Woodd.	Mr. Bouverie.
Mr. Ingham.	Mr. Milner Gibson.
Sir John Shelley.	Mr. Lowe.
Mr. Bonham-Carter.	Mr. Gathorne Hardy.

Mr. *Michael Hassard*, a Member of the House; Mr. *Hugh Adair*, a Member of the House; and Mr. *Thomas Phinn*, Q.C., were severally examined.

[Adjourned to To-morrow, at Twelve o'clock.

Veneris, 9° *die Junii*, 1865.

MEMBERS PRESENT:

Colonel WILSON PATTEN in the Chair.

Mr. Lowe.	Mr. Woodd.
Mr. Gathorne Hardy.	Mr. Ingham.
Mr. Bonham-Carter.	Mr. Milner Gibson.

Mr. *Thomas Phinn*, Q.C., further examined.

Mr. *John Davison* and Mr. *Thomas Coates* were severally examined.

[Adjourned to Monday next, at Twelve o'clock.

Lunæ, 12° *die Junii*, 1865.

MEMBERS PRESENT:

Colonel WILSON PATTEN in the Chair.

Lord Stanley.	Lord Robert Cecil.
Mr. Ennis.	Mr. Milner Gibson.
Mr. Bonham-Carter.	Sir John Shelley.
Mr. Ingham.	Mr. Lowe.

Mr. *Thomas Coates* further examined.

Mr. *John Coleridge*, Q. C., Mr. *Hunter Rodwell*, Q. C., Mr. *G. B. Gregory*, and Mr. *Henry Venables*, were severally examined.

[Adjourned to To-morrow, at Twelve o'clock.

Martis, 13° *die Junii*, 1865.

MEMBERS PRESENT:

Colonel WILSON PATTEN in the Chair.

Mr. Gathorne Hardy.	Mr. Ennis.
Mr. Bonham-Carter.	Lord Robert Cecil.
Mr. Bouverie.	Mr. Lowe.
Mr. Milner Gibson.	

Mr. *Thomas Harrison*, C.E., Mr. *George Rickards*, and Mr. *W. A. Mundell*, were severally examined.

[Adjourned to Thursday next, at Twelve o'clock.

Jovis, 15° *die Junii*, 1865.

MEMBERS PRESENT:

Colonel WILSON PATTEN in the Chair.

Lord Stanley.	Mr. Milner Gibson.
Mr. Thompson.	Sir John Shelley.
Mr. Ingham.	Mr. Bouverie.
Mr. Woodd.	Mr. Ingham.
Mr. Bonham-Carter.	Mr. Ennis.
Mr. Lowe.	

Mr. *Michael Hassard*, a Member of the House, further examined.

Mr. *Vernon Harcourt* and Mr. *Thomas Basil Woodd*, a Member of the Committee, were severally examined.

Mr. *Thomas Eliot Harrison* further examined.

Room cleared. The Committee deliberated.

[Adjourned to Monday next, at Twelve o'clock.

Lunæ, 19° *Junii*, 1865.

MEMBERS PRESENT:

Colonel WILSON PATTEN in the Chair.

Mr. G. Hardy.	Sir John Shelley.
Mr. Thompson.	Mr. Dodson.
Mr. Bonham-Carter.	Mr. Ingham.
Mr. Woodd.	Mr. Lowe.
Mr. Milner Gibson.	

Mr. *J. G. Dodson*, a Member of the Committee, and Mr. *Arthur Mills*, a Member of the House, were severally examined.

The Committee deliberated.

Draft Report, proposed by the Chairman, read 1° as follows:

"1. Your Committee has directed its inquiry, in the first instance, to the three following heads:—

"First. The saving of time of Members of the House, which was the main object of the original institution of the Court of Referees.

"Secondly. The general effect which the court has produced on the dispatch of private business.

"Thirdly. The saving of expense to the promoters and opponents of Private Bills.

"2. As regards the first of these heads, it has been difficult to trace out with any great exactness the effect produced, but it is clearly shown by the tabular statements annexed, and these statements are corroborated by the general tenour of the evidence, that in the aggregate, and supposing that the nature of the private business before Parliament has been of an average character during the last four Sessions, the court has been productive of considerable saving of time to the Members of the House.

"3. Owing to the amount of private business still remaining to be disposed of in the present Session, it has been impossible to compare the whole time occupied in the consideration of private business with that of previous Sessions; but, taking the 31st of May in each Session, it appears that, in 1862, 104 opposed Private Bills were disposed of by Select Committees in 386 days, being at the average rate of 3·45 days to each Bill.

"4. In 1863, up to the same period, 85 Bills were disposed of in 251 days, or at the average rate of 2·89 days to each Bill.

"5. 1864, 128 Bills in 344 days, or an average of 2·86 days to each Bill, while in the present Session 191 Bills have occupied only 417 days, being an average of 2·13 days to each Bill.

"6. The above would show that about one-third of the time occupied on the average, in the consideration of each Bill, has been saved to Members in the present Session.

"7. Your Committee would not infer that there may not have been other causes which may in some slight degree have contributed to this result, but it has been clearly proved by the evidence that it is in a great degree owing to the following circumstances:—

"First. The sittings of the Court of Referees have been much longer in each day than those of Select Committees of the House.

"Secondly. Owing to the nature of the court, and its attention being confined exclusively to matters of fact, its investigations have been conducted with much greater brevity and efficiency than when these matters are mixed up with the question of merits.

"Thirdly. Several Bills, and these not included in the above statement, have been virtually decided by the Referees, and not subsequently submitted to a Select Committee.

"Fourthly. The question of *locus standi*, which in previous Sessions has occupied a portion of the time of Select Committees, has in the present Session devolved exclusively on the Court of Referees.

"8. The above reasons also apply generally to the next head of inquiry, namely, the dispatch of business. It has, however, been proved to your Committee that several parties have been put to inconvenience by the delay which has been caused by the postponement of their Bills from time to time, and this owing to the necessity, which existed on the first institution of the court, to keep the general business of the court in advance of that submitted to the Committees.

"9. If a remedy could not be found for this defect it would be the source of great hardship, especially to the promoters of small undertakings, but there is every reason to suppose

suppose that the experience of the present Session would enable the court to avoid this defect for the future, and Your Committee would direct attention to the evidence of Mr. Hassard and Mr. Adair on this point.

" 10. Your Committee is of opinion that under the third head of inquiry, namely, that of expense to parties promoting or opposing Bills, the Court of Referees has been productive of economy. Additional expense has no doubt been caused by the delays adverted to above, and the circumstance itself of a double inquiry has also been the cause of an additional expense in some instances, and is more especially felt in the promotion of small undertakings, but Your Committee has every reason to believe that the instances of increased expense are exceptional.

" 11. Various suggestions have been made with a view to increasing the efficiency of the court, still further expediting the business, and remedying some of the defects not unnaturally incident to the first formation of such a tribunal.

" 12. The regulation which confines the number of counsel to one in each case is much complained of by some, while it is spoken of by others as a great improvement. Mr. Vernon Harcourt adduced an instance, that of a bridge across the Severn) in which he found himself totally incompetent to discharge his duty to his clients, owing to the heavy responsibility to which he was subjected, of contending single handed, for a period of six hours in one day, against an opposition represented by seven or eight counsel. The same objection was raised by other witnesses, while on the other hand it was represented to the Committee, that great advantage had been derived in several instances, from the continued attention of the same counsel to the whole of the case before the Referees. On the whole, Your Committee recommend that if the Court of Referees should be continued as it is, the present rule should stand, but that it should be open to parties to apply to the court for permission to appear by more than one counsel, or cause show, and that power should be given to the court to comply with the application if it should be thought fit.

" 13. It has also been recommended that some of the matters referred to the decision of the Referees should be stated in greater detail by the promoters; as for instance, that the estimate of the cost of works should be given under more numerous heads than at present. Mr. Harrison, an engineer of considerable experience, submitted to the Committee the form of an estimate, which Your Committee think comprises the principal heads under which such a document should be delivered in, at the commencement of the investigation.

" 14. The most important objection which has been made to the Court of Referees, is the difficulty which exists of defining with sufficient accuracy the respective duties of the Referees and Select Committees, and instances were produced of the difficulty which counsel had met with in advising their clients which was the proper tribunal before which to urge their objections to an undertaking.

" 15. It was also shown that Select Committees had occasionally entertained doubts as to the exact line of demarcation between them and the Referees. Such a defect is no doubt in some degree incident to a double inquiry; but Your Committee believe that the experience of the present Session will enable the Referees so to draw up their reports as to render the defect of less importance in future Sessions.

" 16. Should it be determined to continue the court as at present constituted, the above are amendments to which Your Committee would direct the attention of the House. In the course of their investigation, however, the defects of a double inquiry were put forward with much earnestness, and some even of the Referees appear to be of opinion that if the main objects of the institution, namely, economy of time, could be attained without this defect, it would be a great advantage.

" 17. There is no doubt that a double inquiry is contrary to the common rules of jurisprudence, and it has been justified in the present instance only by the absolute necessity of finding some remedy for the greater waste of time incident to the former system. It is also liable to the objection that some time must be wasted, and expense incurred, in the change of tribunal. On the other hand, the advantages of the change have been so great, that Your Committee would not lightly abandon them; and in calling the attention of the House to the following suggestion made by one of the witnesses called before them, they do so under a belief that the same object, namely, economy of time, may be attained even to a greater degree, without the defects to which the present constitution of the Court of Referees is no doubt to some extent liable.

" 18. It has been suggested that the Chairman of Ways and Means, the Speaker's Counsel, and some additional Member of the House, should form a Court of Referees, to which should be referred all cases of *locus standi*.

" 19. That two Members of the House, in the first instance, should be selected to preside over two courts, assisted by two Members each, not necessarily Members of the House, and that the sittings of these courts should be from eleven to five o'clock each day during the Session of Parliament. That the Chairman of Ways and Means, the Chairman of the Chairmen's Panel, and some other Member, should, at the commencement of each Session, select such Railway or other Bills as, in their opinion, ought to go before the Referees, and that the latter should consider the whole of each Bill referred to them, and not be confined, as at present, to engineering and estimates.

 " 20. The

"20. The benefits of such a tribunal would be as follows:

"The defects incident to the present system of a double inquiry would be altogether obviated.

"The sittings of the court would be of nearly double duration as compared with those of Committees, and, in the opinion of many, would enable the court to transact more than double the amount of business.

"21. The court would afford immense assistance to the House in transacting the annually increasing business of each Session; and the time for making trial of its effects is aptly chosen, inasmuch as in the ensuing Session the usual business of the House is likely to be greatly increased, and the time of Members to be more than usually occupied, owing to the additional Committees, which will be in all probability required for the trial of election petitions.

"22. Your Committee recommend that, inasmuch as the Chairmen of the two Committees will be called upon to devote their time almost exclusively to the duties of their office, salaries should be attached to the latter. They also think that, with a view to keeping their appointment clear from all party imputation, they shall be selected, as at present, by the Speaker, as should also the other members of the tribunal, who should be salaried officers."

Draft Report read 2° paragraph by paragraph.

Paragraphs 1 to 13 severally amended, and *agreed to.*

[Adjourned to Wednesday next, at Twelve o'clock.

Mercurii, 21° *die Junii*, 1865.

MEMBERS PRESENT:

Colonel WILSON PATTEN in the Chair.

Mr. Bouverie.	Sir John Shelley.
Mr. Dodson.	Mr. Milner Gibson.
Mr. Bonham-Carter.	Mr. G. Hardy.
Mr. Ingham.	Mr. Lowe.
Mr. Thompson.	

Amendment proposed, That the following paragraph be inserted, after paragraph 13: "It has been suggested by some of the witnesses, that the Referees should have the power of considering the engineering statistics of alternative lines of railway, which have hitherto been exercised by Committees on opposed Bills. That the Referees may, if they think fit, exercise the same power with regard to suggested alternative lines of railway as they now possess with regard to original lines; and to express their opinion on the comparative engineering merits of competing lines"—(*Chairman*).—Question, That this paragraph be there inserted, put, and *agreed to.*

Paragraph 14 *disagreed to.*

Paragraph 15—Amendments made.—Another Amendment proposed (line 3) to leave out the words, "in some degree"—(Sir *J. Shelley*).—Question put, That the words proposed to be left out stand part of the paragraph.—The Committee divided:—

Ayes, 6.	Noes, 2.
Mr. Bouverie.	Sir J. Shelley.
Mr. Bonham Carter.	Mr. Dodson.
Mr. G. Hardy.	
Mr. Ingham.	
Mr. Thompson.	
Mr Lowe.	

Further consideration of paragraph postponed.

Paragraph 16.—Amendment proposed, That this paragraph be omitted—(Mr. *Thompson*).—Question put, That the words, "Should it be determined to continue the court as at present constituted" stand part of the paragraph.—The Committee divided:

Ayes, 4.	Noes, 4.
Mr. Bouverie.	Mr. Bonham-Carter.
Mr. Dodson.	Mr. Ingham.
Mr. G. Hardy.	Sir John Shelley.
Mr. Lowe.	Mr. Thompson.

Whereupon the Chairman declared himself with the Ayes.

Paragraph

Paragraph verbally amended, and *agreed to.*

Paragraphs 17, 18, 19, and 20, amended, and *agreed to.*

Paragraph 21.—Amendments made.—Another Amendment proposed, in line 2, to leave out from the word "Session" to the end of the paragraph—(Sir *J. Shelley*).—Question, "That the words proposed to be left out stand part of the paragraph," put, and *negatived.*—Paragraph as amended, agreed to.

Amendment proposed, That the following paragraph be inserted after paragraph 21:—"Your Committee recommend that the last-mentioned suggestions be adopted by the House"—(Mr. *G. Hardy*).—Question put, That this paragraph be there inserted.—The Committee divided:

Ayes, 2.	Noes, 5.
Mr. Gathorne Hardy.	Mr. Bonham-Carter.
Mr. Lowe.	Mr. M. Gibson.
	Mr. Ingham.
	Sir John Shelley.
	Mr. Thompson.

Amendment proposed, That the following paragraph be inserted after paragraph 21:—"It has been shown to your Committee, and is indeed of itself very obvious, that the Referees, when once possessed of a case, could decide it much more expeditiously and cheaply than a new Committee, which would have to begin over again with fresh counsel; Your Committee therefore recommend that whenever an inquiry has been commenced before the Court of Referees, it should be completed by them without any change of tribunal"—(Mr. *Lowe*).—Question, That this paragraph be there inserted, put, and *negatived.*

Amendment proposed, That the following paragraph be inserted after paragraph 21:—"On the whole, Your Committee recommend that the Court of Referees should be continued, subject to the alterations above adverted to with respect to detailed estimates, and the consideration of the statistics of alternative and competitive lines of railway"—(Mr. *Thompson*).—Question, That this paragraph be there inserted, put, and *agreed to.*

Amendment proposed, That the following paragraph be inserted after the last paragraph:—"Whenever any Court of Referees shall have examined into and reported upon all the Bills referred to such Court, as to engineering details and estimates, there shall be power to refer to such Court any Private Bill then pending, to be inquired into by such Court, and reported to the House, in like manner and to the same effect as in the case of ordinary Committees on Private Bills"—(Mr. *Ingham*).—Question proposed, That this paragraph be there inserted.—Amendment proposed, after the word "power," to insert the words "with the consent of parties"—(Mr. *Milner Gibson*).—Question put, "That those words be there inserted."—The Committee divided:

Ayes, 4.	Noes, 4.
Mr. Carter.	Mr. Dodson.
Mr. Milner Gibson.	Mr. Gathorne Hardy.
Sir John Shelley.	Mr. Ingham.
Mr. Thompson.	Mr. Lowe.

Whereupon the Chairman declared himself with the Noes.

Question put, That this paragraph be there inserted.—The Committee divided:

Ayes, 3.	Noes, 5.
Mr. Gathorne Hardy.	Mr. Bonham-Carter.
Mr. Ingham.	Mr. Dodson.
Mr. Lowe.	Mr. Milner Gibson.
	Sir John Shelley.
	Mr. Thompson.

Amendment proposed, That the following paragraph be inserted after the last paragraph:—"In all cases, with consent of parties, the Referees may hear evidence and report upon the whole Bill to the House"—(Mr. *G. Hardy*).—Question put, That this paragraph be there inserted.—The Committee divided:

Ayes, 5.	Noes, 2.
Mr. Dodson.	Mr. Bonham-Carter.
Mr. Gathorne Hardy.	Mr. Thompson.
Mr. Ingham.	
Mr. Lowe.	
Sir John Shelley.	

Amendment proposed, That the following paragraph be inserted after the last paragraph:—"That when the Referees shall have reported, in the case of any Bill, that

the estimate is insufficient, or the engineering inefficient, for the proposed object, the Bill shall not be referred to a Committee, unless the House make an Order to that effect"—(Mr. *Dodson*).—Question, That this paragragh be there inserted, put, and *agreed to.*

Paragraph 22 amended, and *agreed to.*

Postponed paragraph 15, *agreed to.*

Question, That this Report, as amended, be the Report of the Committee to the House, put, and *agreed to.*

Ordered, to Report, together with the Minutes of Evidence.

MINUTES OF EVIDENCE.

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MINUTES OF EVIDENCE.

REFORM CLUB
PALL MALL

Jovis, 8° die Junii, 1865.

MEMBERS PRESENT:

Mr. Edward P. Bouverie.	Mr. Lowe.
Mr. Bonham-Carter.	Colonel Wilson Patten.
Mr. Milner Gibson.	Sir John Shelley.
Mr. Gathorne Hardy.	Mr. Woodd.
Mr. Ingham.	

COLONEL WILSON PATTEN, IN THE CHAIR.

Michael Dobbyn Hassard, Esq., a Member of the House, and *Hugh Edward Adair*, Esq., a Member of the House; Examined.

M. D. Hassard, Esq., M.P., and *H. E. Adair*, Esq., M.P.

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1. *Chairman.*] (To Mr. *Hassard.*) YOU have been, for many years past, a Chairman of Select Committees on Railway Bills?—I have.

2. I hold in my hand a list of the number of days that every Member of this House has served on Private Bill Committees, and I observe that you served nine days in the year 1860; 48 days in 1861; 47 days in 1862; 51 days in 1863; and 54 days in 1864, making a total of 209 days, of which nine were not as Chairman?—As my recollection serves me, I commenced to act as Chairman in 1861, on the death of the late Duke of Richmond.

3. (To Mr. *Adair.*) I have taken from the same list the number of days that you have sat on Private Bill Committees, and I find that you sat 57 days in 1860: 42 days in 1861; 56 days in 1862; 41 days in 1863; and 48 days in 1864, making a total of 244 days that you have sat as Chairman of Railway Committees in the last five years?—It may be so; I do not know how many days I have sat during the last five years.

4. (To Mr. *Hassard.*) Under those circumstances you have had a pretty good experience of the mode in which the private business has been conducted before the Select Committees of this House?—I think that I have; I have heard a very great variety of Bills at various times.

5. You have sat in the present Session, as Chairman of one of the Courts of Referees, from its commencement up to the present period?—I have.

6. You, therefore, can speak to the mode in which the business before the Court of Referees has been conducted?—I can as regards one branch; not as regards the branch of *locus standi*, because very shortly after the Court of Referees was established, a separate court, I may say, was devoted to questions

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of *locus standi*, and I did not sit more than a very few days in cases of *locus standi*; I think that Mr. Adair did.

7. (To Mr. *Adair.*) Have you sat in the court where cases of *locus standi* have been determined?—I think that I have sat throughout the Session upon the *locus standi* inquiries, with the exception of the last two days that the court sat.

8. (To Mr. *Hassard.*) From your experience as a Chairman of Committees, should you say that the Court of Referees has in any way contributed, during the present Session, either to shorten the business, to diminish the expense, or to save the time of Members of this House?—As far as the conduct of the business is concerned, I think that it must have assisted very much in shortening the time occupied in investigation by the Committees; with regard to the diminution of expense, I have no means of judging at all as to that, but my opinion is that it must have diminished the expense for various reasons; I should think that a Parliamentary Agent would be better able to give an opinion upon that point than myself.

9. You hold in your hand a Return from the Private Bill Office of the number of Bills which have been considered by Committees in this House for the last five years?—I do; signed by the officer.

10. Will you state what number of Bills have been read a second time in each of those years?—In the year 1861, 246 Bills, up to the 31st of May, were read a second time.

11. How many of those remained undisposed of on the 31st of May?—On the 31st of May 1861, 44 Bills remained undisposed of; in 1862, at the same period, 227 Bills were read a second time, and of those, on the 31st of May, 29 remained undisposed of; on the 31st of May 1863, 241 Bills were read a second time, and 52 remained undisposed of; on the 31st of May 1864, 338 Bills were read a second time, and 81 remained undisposed of; on the 31st of May 1865, 419 Bills were read a second time, and 53 remained undisposed of.

12. So that in the present Session there was a much less proportion of Bills remaining undisposed of, comparatively, on the 31st of May, than in any of those years, except one?—A very much smaller ratio of Bills remained undisposed of. The ratio of Bills reported is, I think, even still more remarkable. On the 31st of May 1861, there were 187 Bills reported upon by Committees; in 1862 there were 189 reported upon; in 1863 there were 185 reported upon; in 1864 there were 240 reported upon; and in this year there were 344 reported upon; and I think that that shows that there must have been something which gave greater facility to Committees to report upon the Bills. They reported upon 104 more Bills this year than they did in the year previous.

13. Judging from your experience as a Chairman of Committees, and also as Chairman of one of the Courts of Referees, should you say that the business of the present Session, setting aside the number of Bills, has been of a heavier or lighter nature on the average?—I think it pretty much of the same character. The number of Bills is greater; but, from the nature of the Bills that came before me, I should say that they are about of the same character. There have been some very large Bills and some very small ones. Perhaps the best guide which I could give as to that would be to state about what was the number of days which were occupied by, I think, the heaviest Bill upon which I was engaged, which was a very heavy Bill, namely, for a high level bridge over the Forth; we sat for five days; but the Bill was not then completed, because the opposition was withdrawn before the second day that the opponents' case was entered upon. On the other hand, I think that I have reported upon as many as four Bills in one day.

14. With regard to the heavy Bill which you mention for the construction of a bridge over the Forth, can you give any opinion, founded upon the course of proceeding before the Court of Referees, whether that Bill would have required before one of the usual Committees of this House more or less time to investigate it?—I think that it would have taken a very much longer time to investigate it, because the nature of the investigation upon it, I may say, was purely engineering, and, I may say, almost scientific. There was, I believe, no opposition to the Bill from landowners at all, and the main questions to be ascertained were, whether a foundation could be found for the bridge; and then how the superstructure could

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could be placed in such deep water as the bridge was contemplated to be erected in, namely, 52 feet of water at low water; and then there was a complicated question as to the pressure to be exercised upon the foundation by the action of the wind upon the summit of the bridge, which was 125 feet from the surface. In fact, almost all the questions in that case were purely scientific. I think that the engineers' evidence would have been very much more desultory, had it been before an ordinary Committee.

15. Is the investigation carried on in the same manner before the Court of Referees as before a Select Committee?—As to form, it is.

16. But I believe that the *onus probandi* rests upon the objectors?—In that case, it did not. It is a general rule which the Referees have adopted, to require the opponents to begin. They require the opponents, generally speaking, to specify in their petitions the exact points upon which they object to the promoters' scheme; and then they require the opponents of the Bill to apply themselves to the objections to the scheme; but in the case which I have mentioned, it was found that that course would not answer. The objection to the scheme, of course, is very often to the detail of the scheme as projected by the promoters of the Bill; and in those cases we require the promoters first to open their case and state how they mean to erect the edifice; and in such a case as that we treat it as it would be treated by a Committee.

17. What is it which leads you to believe that that investigation would have taken more time if it had been before a Select Committee?—From my experience of the manner in which engineering witnesses give their evidence before a Committee, I think that they are very much less diffuse when giving it before what I may call a continuous tribunal, than they would be when giving it before a Committee which is only embodied for a short time. After they have given evidence for perhaps more than two months before the same tribunal, they do not indulge in some of those episodes, and some of those imaginary things which they propound before a Committee.

18. Do you believe that in the investigation into the merits of the bridge across the Forth, you interfered in any way with the investigation before the subsequent Committee with regard to the merits of the line?—I think that we should not have done so. I must recall to your mind the fact that the Bill never did go to a Committee, because the opposition was withdrawn, and the Bill has now passed as an unopposed Bill.

19. Do you believe that your investigation had anything to do with the withdrawal of the opposition?—No; I know the circumstances under which the opposition was withdrawn; it was a compromise made between four companies, some of whom had another scheme, and there was a mutual withdrawal of opposition.

20. (To Mr. *Adair*.) You had to investigate the case of a bridge across the Severn?—Yes.

21. I believe that it took you more days than any case which you have had to investigate?—It is the longest case which the Court with which I am connected has heard; it lasted, I think, about seven days and a half.

22. Have you any reason to believe that it would have taken more time before a Committee of the House?—I am inclined to think that it would have done so, for I have found that before the Court of Referees the engineers are much more accurate in their evidence; the questions are directed much more to the investigation of the real merits of the case, and hearing only one counsel, who is necessarily present during the whole of the proceedings, keeps him so thoroughly aware of what has been stated that it tends very much to avoid useless repetition.

23. (To Mr. *Hassard*.) You have expressed your opinion that the engineers are more particular in their evidence before the Referees than they are before the General Committees of the House?—I am quite sure that they are; in fact, they do not offer the evidence which they would offer before a General Committee; they confine themselves very much more to the point.

24. Can you state the greatest number of days that any one engineer has been before the Referees in the present Session?—I do not think that I have had one engineer more than one entire day, except that in the case of the bridge over the Forth;

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Forth; Mr. Bouch was examined one day, and was cross-examined the next. (Mr. *Adair*.) The engineer of the promoters of the Severn Bridge Scheme, Mr. Fowler, was examined for about a day, and a third of a day.

25. Can you state what has been the greatest number of days that you have ever heard an engineer examined before a Committee of the House?—I cannot.

26. (To Mr. *Hassard*.) Can you answer that question?—I cannot.

27. However, I believe that I am not incorrect in saying that it is not at all an uncommon thing to have an engineer under examination before a Committee for two days?—I should think not; but I should think that my learned friend Mr. Ingham could probably tell you about that, for I think that he sat upon some of the heaviest engineering cases of last Session. I never had so heavy a purely engineering case before me as I had this Session. I have had Bills which took a much longer time, but they were not purely engineering.

28. Have you had many cases this Session in which the engineers' evidence has occupied you a whole day?—No; excepting in the Forth Bridge case I do not think that any engineer has been under examination for an entire day.

29. (To Mr. *Adair*). Have you had any such cases?—Not that I recollect.

30. You have not had any one case in which the engineer has been under examination for a whole day?—I should say not; but I am not quite certain of that. I would observe to the Committee that the Severn case was a most peculiar case. We went into the engineering, upon which the whole scheme essentially depended. If our report had been adverse to the scheme, it perhaps might have had a great effect on the decision of the Committee, to whom the Bill would then have proceeded if the parties had thought right to go on with it at all. Therefore, in these cases of bridges across tidal rivers with very heavy engineering works, I think that the Referees practically hear the case. (Mr. *Hassard*.) I quite agree in that.

31. In the case of the bridge across the Forth, have you sufficient knowledge of the Bill before the House to give an opinion whether the whole merits of the case did or did not rest with the work across the Forth?—I am quite in a position to state that the entire merits were those of the engineering of the scheme, because it was a bridge proposed in substitution for a railway, which was passed by a Committee of which I was chairman, in the previous year, and I am acquainted with all the lines at either end. I am aware that there was no opposition from landowners; the only opposition, in short, was from the railway companies, with whom this was a competing scheme, and the entire opposition was directed, in fact, to the structure of the bridge.

32. Then, in your opinion, the investigation before the Committee, when the Bill had left your hands, would have been of the shortest possible kind?—I should have said that there was nothing for them really to investigate, and they would have made a report in exactly similar terms.

33. With regard to the Bill for a tunnel under the Mersey from Birkenhead to Liverpool, did it go to a Committee afterwards?—The Referees reported favourably upon it, and I believe, as far as I am able to learn, that the Committee reported favourably upon it; but the Bill fell through upon the question of a breach of Standing Orders. I believe that practically there was nothing whatever in that Bill except a piece of engineering.

34. How many days did it take you?—I cannot exactly remember, but I think three or four; there was a geological question as to what the promoters of the Bill were likely to meet with in their passage under the river.

35. Did it go through the Committee afterwards?—Yes.

36. Do you know how many days it took before the Committee?—I do not; Mr. Rogers was the Chairman of the Committee.

37. What was the name of the Bill?—The Birkenhead and Liverpool Railway Bill; it was nothing but a tunnel between Birkenhead and Liverpool.

38. Do you know how many days that Bill was before Committee after it had left your hands?—I am informed it was before the Committee for two days.

39. Do you believe that that Bill could have been as well investigated before a Committee as under the hands of a permanent tribunal?—I do not, for the same

same reason as I have given before, namely, that the tribunal, from sitting so long, had acquired peculiar training, and, I think, was more peculiarly fitted to deal with those subjects.

40. With regard to the constitution of the Court; it was decided by the House of Commons, in the last Session, that only one counsel should be heard before the Court of Referees; is it your opinion that that is a rule which it is desirable to continue if the Court of Referees itself should be continued?—I should say not, in its strictness. I have not felt inconvenience from it, but at the same time counsel in the Forth Bridge and in the Birkenhead Tunnel Schemes did occasionally appeal to me not to sit too late, because they were exhausted from the continuous strain which there was upon them; the whole case, which was very heavy, being entrusted to their individual hands.

41. Do you recollect the number of hours which you sat?—Generally from eleven to six.

42. How is that compared with the sittings of the Courts in Westminster Hall?—I do not know; but I believe that they sit from ten till four or five. The sitting was continuous with us from eleven until six. Occasionally I have sat later, but that was when we were evidently very near the termination of the case, and we thought it a pity to put the parties to the expense of a second meeting. I have sat as late as from eleven to half-past seven.

43. But I collect from your evidence that you are of opinion that it is too great a strain upon one individual?—Yes, in heavy cases.

44. Should you see any objection to the number of counsel being increased, and if so, in what way?—I do not see a reason for the limitation; only one can speak at a time.

45. Do you see no objection upon the ground of expense?—I am not competent to speak upon that point, though I must say that I was told by a very eminent counsel that he had received fees which would have enabled the parties to have employed two or three counsel, which would have assisted him wonderfully; a counsel told me that, and the manner in which he told it to me did not impose upon me any terms of confidence.

46. As regards the investigation itself, you say that it is much more beneficially conducted by one counsel than before Committees, because he is present the whole time, and knows everything which has been said by the numerous witnesses?—I quite agree with what Mr. Adair has said in that respect; I have often when sitting upon a Committee seen the disadvantage of a counsel coming in who had not heard more than portions of the case. Mr. Adair reminds me that a good many sessions ago, when Mr. Ingham, I think, was Chairman of the Panel of Chairmen, we passed a sort of bye-law, that we would not permit a counsel to cross-examine a witness if he had not been present during his examination in chief.

47. Do you know whether that practice is retained now?—I believe it is; as far as I was concerned I always retained it, and counsel submitted to it.

48. As Chairman of a Select Committee, do you recollect whether you have ever complained of the evidence being prolonged from junior counsel waiting until they could get their senior into the room?—I should hardly like to say that that has been matter of complaint; I have no doubt seen play made occasionally for a short time, unnecessarily perhaps, but I think that I have never seen the time of the Committee abused; I have, perhaps, seen 10 or 15 minutes so occupied.

49. (To Mr. *Adair*.) Will you state your opinion on the point of having only one counsel before the Court of Referees?—I think that it is a decided advantage, as a general rule, to hear only one counsel, because the Committee will observe that the operation of that rule is, that only one man may address the Committee or examine witnesses, but he may have as many counsel to assist him in taking notes and suggesting questions as the parties may choose to employ. In the Severn case, which was entirely conducted on the part of the promoters by one counsel, it was certainly a very heavy professional undertaking for him to carry out; I think that, however large his fees (and they were probably large) may have been, they were less than they would have been under the old system, for, in a case of that magnitude and vital importance to the promoters, a large number of leading counsel would have been retained. The case was efficiently

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conducted, and it had the advantage of being conducted by a counsel who had heard every word of the evidence which had been given on cross-examination, or on examination in chief. I myself think that if the Court of Referees is continued, it might be desirable to give the Chairman power to certify, as is sometimes done in courts of law, that it is an inquiry of such a magnitude that a second counsel might be allowed; but I am not inclined to depart from the rule of hearing one counsel only. On that subject I must say that the result of that has been practically to introduce a great number of fresh counsel into Parliamentary business, and to bring a number of younger counsel to conduct the cases, inasmuch as the experienced Parliamentary counsel are all retained by the different companies, and appear before Committees on the merits, and not in the Courts of the Referees. An increase of work of course falls upon the court; for whenever there is a want of experience in Parliamentary usage, and counsel are not previously experienced, the labour falls upon the court to assist them in the inquiry. Therefore an increase of labour, by the absence of experienced Parliamentary counsel, falls upon the court, who have, perhaps, to interfere more in the conduct of the case than they otherwise might be called upon to do.

50. From your experience, should you say that the Court of Referees has not had the service of the leading counsel during the present Session?—I have no hesitation in saying that, except before the sitting of Committees, hardly any of the leading Parliamentary counsel have appeared, except on cases of *locus standi*, and not on many *locus standi* cases after the sitting of Committees.

51. In a case, such as the one described by Mr. Hassard, of the bridge across the Forth, and that upon which you have given evidence, the bridge across the Severn, was not it rather essential that you should have had the services of the best counsel whom you could have got?—It would have been desirable, but I would not be understood by that to say, that the Severn Bridge case was not most ably conducted on both sides; but inasmuch as there were five or six opponents, each with their separate counsel, the labour of those counsel was not comparable with the labour of the one counsel who appeared for the promoters. (Mr. *Hassard.*) I think that I ought also to say that, in the Forth case, the case was very ably conducted, although by a junior counsel. I had no reason whatever to be dissatisfied with the manner in which the promoters' case was conducted; but there was practically only one opponent, namely, the railway company.

52. Is not it a necessary result of that state of things, that if a party does wish to employ a leading counsel, or an eminent counsel, before the Court of Referees, he is obliged to give a much larger fee than he would do before a Committee of the House?—(Mr. *Adair.*) I think that the professional arrangements of Parliamentary counsel, consisting as they do of general retainers for large railway companies, would have the effect of precluding the leading Parliamentary counsel from being able to attend before the Referees, but I should hardly think that any fee which may be given to a man, however eminent in the profession, for the conduct of such a case, would equal the amount of fees which would be given were the parties at liberty to employ any number of counsel.

53. I happen, myself, to know of an instance where a Parliamentary counsel got 100 guineas in one day for his attendance before the Court of Referees; do you think that such a fee as that has ever been given before a Committee of the House?—Not to an individual; but in the aggregate I have no doubt it has been given to three or four counsel. (Mr. *Hassard.*) I recollect six counsel once appearing for the promoters of a Bill. (Mr. *Adair.*) And those the leading Parliamentary counsel, each of whom, probably, had not less than from 20 to 25 guineas a day, inclusive of consultations. I wish, in this matter, to state that there was an application made to the Court A. of the Referees, to permit a departure from the Standing Order in the case of the Severn Bridge, and in the case of the Forth Bridge, on the ground of the heavy nature of the case on the part of the promoters. The Referees said that they were concluded by the Standing Orders, and that it was not for them to do otherwise than to see that they were carried out and adhered to.

54. Though you did not allow more than one counsel before the Referees to address you, were there in the room other counsel assisting by their advice or otherwise

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otherwise the one counsel who had to address you?—I never saw such a case.

55. (To Mr. *Hassard.*) Have you ever seen such a case?—No. (Mr. *Adair.*) Whenever complaints have been made of the severity of the operation of the Standing Order, I have always drawn the attention of the counsel to the fact that he was permitted by that Standing Order to have any number of professional coadjutors that his clients might wish.

56. Can you speak from knowledge of your own of the number of counsel usually engaged before Private Bill Committees; in each case, in heavy cases for instance, is it ever so few as two?—Never, in a heavy case; that is to say, when a Bill is promoted by a railway company and opposed by several other railway companies, I should say that certainly there are seldom less than two counsel who are concerned very actively in the conduct of the case, besides other counsel, who, being generally retained by the company, receive their fees, though they really are conducting the business of the company in another room; so that the number of counsel appearing in a room on the part of a railway company is no evidence of the number of counsel who may have received briefs on the case which the Committee are hearing. As my honourable colleague suggests to me, if the Committee wish to have positive evidence of it they can get it from the Committee clerk who takes the appearances; on which occasion the name of every counsel appearing for the petitioner is entered. Therefore there can be no doubt of the counsel who are retained in each case, and sometimes counsel are added during the progress of the case to assist the case, and to relieve some counsel who up to a certain period may have conducted it.

57. That would show the state of affairs as regards Committees, but would it show it as respects the Referees; the Standing Order being that there shall be only one counsel?—The name of the counsel is usually entered before the Referees, just as before the Committee.

58. Had you ever a case where more than one counsel was entered, where only one was heard?—I do not recollect, but I should say not. (Mr. *Hassard.*) I should say that there never was a case before me in which there was a silent counsel as an assistant counsel.

59. You hold in your hand a Return from the Private Bill Office of the number of cases which have been before the Referees during the present Session?—I do.

60. What is the number of petitions which have been presented, endorsed as to be sent before the Referees?—The first item in this Return is the number of Bills against which endorsed petitions were lodged; that number was 306.

61. When you say "endorsed petitions," that is, that the petition is endorsed to be sent to the Referees as well as before the Committee?—Yes; the rule was made by, I think, the Chairman of Ways and Means, that any person who wished to be heard before the Referees should endorse on the petition his desire so to be heard, and the particular grounds upon which he wished to be heard. The number of petitions so endorsed was 1,444. The number of reports of the Referees up to the 29th of May (there have been some subsequently), was 107. The number of petitions against the Bills reported upon by the Referees was 315. Of course, there is a great variance between that number and the number of petitions lodged against the Bills, because numbers of those Bills were never really heard by the Referees. The number of Bills, where the promoters objected to the *locus standi* of the petitioners and were heard before the Referees, was 85, and the number of petitions against which objections to the *locus standi* were decided was 136.

62. Will you state the number of days on which the Courts of Referees have sat during the present Session?—At first, all the Referees sat together, I think, for something more than a week, in order, as it were, to set the thing going, and to decide upon some mode of procedure. Then it was found that the business was going off too slowly, and the Referees were divided into two courts, one of which took the cases of *locus standi* as well as the ordinary duty of the Referees, and the second court, over which I was then put to preside, confined its duties exclusively to the hearing of Bills. Those two courts sat for 42 days. It was then found that the business was still not going on sufficiently quickly, and that the hearing of the questions of *locus standi* interfered with the hearing of Bills and petitions, and a third court was established, it being devoted exclusively to *locus standi* cases. The three courts sat concurrently for four days.

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63. How many days altogether did the Referees sit?—Fifty-seven.

[*The following Papers were delivered in:*]

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(A.)

STATEMENT of the Progress through Committee of PRIVATE BILLS originating in the House of Commons and read a Second Time, down to 31st May, for Five Years ending 31st May 1865.

	Number of Bills Read a Second Time to 31st May.	Number Withdrawn after Second Reading.	Number in Committee.	Number Reported to 31st May.	Number Remaining in Committee on 31st May,
Session 1861 - -	246	15	231	187	44
„ 1862 - -	227	9	218	189	29
„ 1863 - -	241	4	237	185	52
„ 1864 - -	338	17	321	240	81
„ 1865 - -	419	22	397	344	53

Private Bill Office, 8 June 1865.

R. K. Gibbons.

(B.)

Monday, 29th May:—

1. Total number of Bills against which endorsed Petitions were lodged - - 306
2. Total number of Petitions endorsed for hearing by the Referees - - - 1,444
3. Number of Reports of Referees - - - - - - - - - - 107
4. Number of Petitions against Bills reported upon by the Referees - - - 315

1. Number of Bills whose Promoters have objected to the *locus standi* of Petitioners, and been heard before the Referees - - - - - - 85
2. Number of Petitions against which objections to *locus standi* have been decided 136

Number of days upon which the Referees have sat:—

1 Court - - - - - - - - -	11 days
2 Courts - - - - - - - -	42 „
3 Courts - - - - - - - -	4 „
TOTAL - - -	57

64. Mr. *Woodd.*] With respect to having only one counsel before the Referees, are not the difficulties very much lessened in that case, in consequence of the cross-examination and the examination in chief being confined to engineering, and there being an engineer there always ready to prompt counsel upon those points?—Very much so.

65. The same amount of legal knowledge and experience is not required in the counsel as in ordinary practice before Committees?—It is not. On very many occasions I have seen the questions practically shaped and suggested by the engineer who was at the shoulder of the counsel at the time.

66. Sir *John Shelley.*] With regard to having only one counsel, as I understand, any objection which either of you may have to only one counsel being employed, might be removed, supposing the chairman seeing a heavy case before him, had the power under those circumstances at his discretion, of calling for a second counsel?—Quite so; as a general rule, I should say that it is attended with convenience that there should be only one counsel.

67. But whatever inconvenience might arise would be removed, supposing the chairman to have the power, under extraordinary circumstances, of allowing a second counsel to be called in?—It would. (Mr. *Adair.*) I would assent to that with this qualification, provided that the points examined into by the Referees be on engineering and estimate.

68. (To

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68. (To Mr. *Hassard.*) What do you say with reference to that matter?—In fact, that is going into another branch; I think that the answer would be appropriate to the question, as to what is really to be the sphere of the court.

69. I understand you to have given your evidence upon the assumption that in the Bill for the bridge across the Forth, the case was so very heavy as to be a great strain to be thrown upon one counsel alone?—I think so; but that is quite consonant with what my honourable colleague has said; that he assents to my previous answer, provided that the investigation of the Referees is confined to engineering and estimate. My answer was also given with reference to that, because that is the matter for the investigation of the court. It may be quite another question if the scope of the investigation of the court be extended, which, I must say, I think could be done with advantage.

70. Mr. *Lowe.*] You have spoken of engineering and *locus standi* as two of the subjects which came before you; were there any others? (Mr. *Adair.*)—I believe that I must answer the question as my honourable colleague has not heard cases of *locus standi*, which I have heard nearly throughout the Session. There were the questions of *locus standi*, engineering, and estimate.

71. Have you had much on estimate?—Not much. (Mr. *Hassard.*) I have had some very heavy cases turning upon estimate; in fact, some Bills were thrown out upon estimate; there was the case of the Bute Docks.

72. Had you much on engineering?—Yes; a great deal.

73. *Locus standi* cases you had not?—I have only sat in five or six cases of *locus standi*. I only sat upon *locus standi* cases when one court was sitting. I was then a member of it; but after that I ceased to sit upon *locus standi* cases.

74. Had you any other subject before you?—I had gas and water Bills; but they are all, properly speaking, engineering.

75. That exhausts the subjects of your inquiry?—Those subjects were all that we felt that we were entitled to inquire into under the Standing Orders.

76. Have you any suggestions to make to the Committee as to enlarging, or restricting, or varying the subjects of your inquiry?—I think that there are many other subjects which could very well be heard by a tribunal such as the Referees. Perhaps the best illustration which I can give is a case which took place before me on engineering; but at the same time the case clearly was such, I think, as could have been very much better determined by a tribunal such as the Referees than by a Committee. It was a case of new lines, what were called relief lines, which were to be made through the Perth Central Station. Two relief lines were to be made to take the goods traffic out of the centre of the station, and to take it outside, so as to relieve the passenger lines. Those new lines were to be made entirely upon the property already in the possession of the contending companies. A part of the Perth Central Station is under a joint committee, appointed by four companies, who have rights in it. Those relief lines were to be made upon the land in possession of one or other of those four companies. The entire question was an engineering question as to how the lines could be best laid out so as to relieve the passenger lines. Two companies contended about it, the Scottish Central, and I think the General Company. Then came the question, who was to have the control of those lines when made, and then came the question whether the powers of the general committee could be extended over a larger area than now exists. All those questions turn really upon engineering, and upon the traffic of the station; there was no public question whatever involved; no land was taken from anyone; there was no opposition, and no person was interested in the matter excepting the companies who now actually enjoy rights by Act of Parliament in the station.

77. Under what head would you classify that case; would you call it engineering?—It is a mixed question of engineering and traffic management.

78. It is giving effect to contracts between companies where there is no opposition?—A contract could hardly be said to exist in relation to those new lines to be made; it was only an improved method of effecting the transit of the traffic.

79. Do you think that such a question as that ought properly to come before Parliament at all?—I think not.

80. Ought it not to be a matter of extended powers to be given to the company?—Then the question comes, who is to arbitrate between the parties when they disagree as to the carrying out of those powers?

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81. *Chairman.*] It could not be done without an Act of Parliament?—It could not.

82. Mr. *Lowe.*] Under what head would you classify that case, supposing that it could not be done without an Act of Parliament?—It is really more a question of arbitration amongst the parties.

83. Is there any other case which you would suggest should be heard before the Referees?—I would suggest that, where the questions are purely scientific, and do not involve the infringement of any public right or private right, it would be better that the tribunal should entertain the entire question, and decide upon it finally. I may take the question of the bridges of which we have been speaking, where it was a mixed question, one part being engineering, as to the practicability of the scheme, and the other part being an arbitration as between the lines which were to be connected by the scheme. I think that any case of that kind could be very much better disposed of by a fixed tribunal than by an ordinary Committee of the House.

84. The criterion would be whether it involved any public or private rights?—I think very much so.

85. How came these Bills to be opposed if they involved no public or private rights?—They were merely fights between the railway companies.

86. Do you think that the railway companies ought to be allowed to raise opposition where no public or private rights are involved?—I am afraid that that is rather too large a question to be discussed here.

87. But you think that the Referees, in a case where no public or private right is involved, ought to be allowed to decide the question finally?—If you ask me that question, I must go more largely into it. If it came to be a question as to what subjects should be submitted definitively to the tribunal of the Referees, I think that it would be necessary to constitute some sort of tribunal which should make a selection of those subjects; and I think that such a tribunal could be very well formed of the Chairman of Ways and Means, and perhaps the Chairman of the Committee on Standing Orders, the Chairman of the Committee of Selection, and perhaps one of the Chairmen of the Referees, if there were two tribunals of Referees, or if there were but one tribunal, the Chairman of it. I think that they, with the assistance of the agents who would no doubt upon all occasions give them every information, would be able so to classify the Bills that they could select those to be finally submitted to the Referees.

88. Would you leave them an absolute discretion, or would you limit it, as at present?—I think that it would be possible, within certain limits, to define classes of Bills pretty nearly accurately.

89. Would you allow the parties to be heard before that tribunal, as to which class a Bill should go in?—My impression would be that it should be done pretty much in the way in which the grouping of Bills is now effected by the panel of Chairmen; it is done with the panel of Chairmen, with the assistance of the agents; and the agents upon all occasions give every assistance.

90. Do the Board of Trade give any assistance?—They do give reports upon the Bills, and no doubt they are often of very great value.

91. Would you substitute another tribunal by enlargement, or would you let both sit together?—I would let both sit together; one tribunal would select the business to be submitted to the Referees. The only difference would be that, instead of the Bill, after having passed from their hands, going to a Committee and being reheard, as it very often is in practice, it would, in whatever way might be thought proper by the House, either be reported directly to the House as a Committee now reports, or it might perhaps, as has been suggested, go to the Chairman of Ways and Means as an unopposed Bill.

92. You would allow the Committee of which you have spoken to send a Bill finally to the Referees against the will of one party?—I should.

93. Have you any other suggestion to make as regards the jurisdiction of the Referees?—If the Referees be formed as a strong tribunal, I should suggest the bringing into operation of the Bill which is now awaiting the Royal Assent, as to awarding costs.

94. Have you any suggestion to make as to the number of the court?—That is not quite for me to suggest. If you mean the number that should constitute the court, I should think that the present number of three will do very well if

you

you have more than one court, but if you have only one court I should like to see the number increased to five.

95. Why?—From my experience with regard to the working of Committees, I think that five is a very serviceable number for a working Committee.

96. When you have decided a case before the Court of Referees, according to your experience, have you left much to the Committee to inquire into?—In some cases we have left almost the entire Bill, and in other cases practically nothing.

97. In general do you leave much?—In general I think not; so far as regards the subjects submitted to the Referees, their inquiry exhausts the subject; that is to say, so far as engineering or estimate goes, but very often that is a very small part of the Bill; it may involve questions of running powers or tolls, of which the Referees have no cognizance.

98. (To Mr. *Adair*.) You have said that the Referees practically hear the case; what do you mean by that?—What I mean by that expression is this: In a case, the success of which entirely depends on the feasibility of the engineering of the works proposed to be constructed to carry out the objects of the promoters, if the Referees report adversely to that scheme, I apprehend that they practically decide the question. If the Bill is proceeded with any further, and is not immediately withdrawn, the Committee will probably ask the parties if, in the face of that report, they intend to proceed. I apprehend that there would be little object in inquiring into the merits of a scheme which could not be practically carried out.

99. Have Committees practically abstained from inquiring into subjects which have been decided upon by the Referees?—Not entirely. As the Standing Orders at present exist, a Committee are enabled to inquire into engineering, the Standing Order authorising them to do so, not having been altered or expunged.

100. *Chairman*.] What Standing Order is that?—The 149th: "The Committee on Railway Bills shall direct their attention especially to the following heads of inquiry, and shall require evidence from the promoters thereon." The second head is, "The merits, in an engineering point of view, of the proposed railway." Now, the operation of that might be entirely to defeat the report of the Referees. It seems to me that the promoters might propose a line against which an adverse report of the Referees might be made; they might then come before the Committee, suggesting an alternative line within their own limits of deviation, call upon the Committee to hear that alternative line, and so avoid the decision which the Referees had practically given against them. The only restriction which they would labour under would be that of making their line within the limits of deviation according to their deposited plans. Therefore, a line might be passed on the engineering of which the Referees had pronounced no opinion.

101. Mr. *Lowe*.] Has that ever practically happened?—I do not know of my own knowledge that it has.

102. But it might happen?—Yes; I do not say that it has happened or that it has not, but I do not know of my own knowledge that it has.

103. *Chairman*.] You say that the Committee, under the 149th Standing Order, are obliged to report upon the merits in an engineering point of view?—They conceive themselves at liberty to report upon them.

104. Is not that, in your opinion, erroneous?—I consider quite so, but the Chairmen of Committees have told me that they still have a power to inquire into the engineering, and that, if they think fit, they will exercise that power.

105. Is there not the following direction at the end of the 91st Standing Order: "No further evidence shall be taken by the Committee to prove or disprove any of the facts reported by the Referees"?—Quite so; but in the case which I have given of an alternative line there has been no report from the Referees on the alternative line; the alternative line has never come before them.

106. But is not the Committee, according to the Standing Orders, in a case of that sort at liberty to refer it to the Referees?—Undoubtedly; if they entertain it at all, I should submit that their proper course would be to say, "We refer this alternative line to the tribunal by whom the House intended that the engineering should be heard, but who by your ingenuity have not had an opportunity of pronouncing upon the scheme which you propose."

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107. The House of Commons has, in fact, provided by the Standing Orders for the very case to which you have referred?—Not with indisputable clearness.

108. The Committee having power to refer any such matter to the Referees, and not having power to inquire into anything which has been decided by the Referees, surely it shows the intention of the House of Commons, that the Referees shall alone inquire into engineering questions?—Quite so; but it shows that the discretion of referring that matter to the Referees is in the breast of the Committee; it is not obligatory upon them to refer the matter.

109. If you were Chairman of a Committee of the House of Commons, should you or should you not enter into an engineering question under the Standing Orders of the House?—Personally I should be only too happy to be able to get rid of it, and therefore, certainly if I chose to entertain at all what I consider to be an attempt to evade the intention of Parliament, I should refer the question to the Court of Referees.

110. The 149th Standing Order, stating "The merits in an engineering point of view of the proposed railway, and the crossings, if any, of public roads on the level;" you understand that the Committees would have to report upon those points, though under the Standing Orders they would only have to include the report of the Referees to them upon those points?—I apprehend that they would embody the report of the Court, which was formally within their cognizance, that Court having been especially formed by the decision of the House for the consideration of engineering points.

111. And you believe that in so doing they would strictly comply with the 149th Standing Order, in which that section is?—I think that they would comply with the spirit of the Standing Orders in so doing. I do not say that it is not an arguable point whether the question of engineering is not kept alive if a Committee choose to exercise the power.

112. Mr. *Ingham.*] As I understand you, you would suggest either that the Standing Order should be altered so that an alternative line should no longer be started, or else that it should be made obligatory upon the Committee on the Bill, if such a question should be brought before them, at once to send it to the Referees?—Quite so; I would further say, that I think that that power, if carried out, may lead to a protracted inquiry, and the duration of that inquiry may be used as an argument against the Court when the House intended to hear the case. (Mr. *Hassard.*) In continuation of my reply to the Right Honorable Member for Calne, I would observe that there are two classes of Bills which, I think, might well be finally referred to the Court of Referees. One class is cases of amalgamation. There was a very heavy case which came before me in the year 1862: it was the amalgamation of the Eastern Counties Railway, as it was then called, with adjacent lines. That Bill was brought in actually in pursuance of an Act of Parliament passed five years previously, and under which the Company were compelled, within a period of five years, to come for an Amalgamation Bill. The first attempt which was made when that Bill was brought in was this: there were five companies, and four of them attempted to oppose the amalgamation, and I distinctly recollect that we refused to hear them upon the ground that the promoters were bound to come for an amalgamation, and that the only thing upon which the opposing companies could be heard was as to the terms of the amalgamation. It came to be a mere question of figures how much of the joint stock each party should take according to their respective interests. The inquiry was very protracted. I think that it took us 17 days to settle that matter, but still it was merely a question of calculation as to what the exact state of the several companies was, and how the stock was to be allocated. There was another question also, namely, the re-casting of the tolls; that, I think, took us three or four days out of the 17; but still it was a mere matter of figures. A case of that kind, I think, could be very well settled by the Court of Referees. There was another case which came before me, the case of the Methley Junction, in Yorkshire. The Act had passed in the year 1863, for the making of the Methley junction by two companies, and in it was put a clause that if a third company should think well of it in the succeeding year, they should come with a Bill to be admitted as joint partners. They did come for that Bill, and that was the whole subject matter of the Bill. They were opposed by one of the original companies. Of course the opposition was unavailing; but still I remember that that fight occupied two or three days. I think that that is a question which could be very

very well determined by the Court of Referees. There the parties had legal obligations to each other, and it was a mere question of arbitration.

113. Mr. *Lowe.*] To sum up the classes of cases which you think might be heard before the Court of Referees, arbitration is one, amalgamation is another, and pure engineering where there are no public or private rights is another?—Yes.

114. Would you think it wise to add another case, namely, that with the consent of the parties, this tribunal might decide anything?—I think so, certainly. (Mr. *Adair.*) I must ask the Committee to permit me to state that, as we are jointly examined, I may be supposed to be responsible for some of the opinions of my honourable colleague; therefore I wish to protect myself by saying that I think that amalgamation cases, where they are the creatures of a previous Act of Parliament, and only the carrying out of a legal obligation, might be well considered by the Referees; but if it were to be a question of the policy of permitting amalgamation, that is a larger question, about which I may have an opinion. When the amalgamation is the mere completion of an existing legal liability, I perfectly agree with what my honourable colleague has said.

115. *Chairman.*] In point of fact, the public are often more interested in the question of the amalgamation of railways than in the original formation of a railway?—Undoubtedly; as I stated in a previous year, I look upon the question of amalgamation as one of the most important questions regarding railways which can be submitted to the House of Commons.

116. That is purely legislative?—Yes, and the question of public policy is more completely involved.

117. Sir *John Shelley.*] Do you mean in the interest of the public?—Yes.

118. Mr. *Lowe.*] (To Mr. *Hassard.*) What do you say to that?—In my own experience, I certainly have seen many cases in which questions of policy have been very largely mixed up with amalgamation, but still I should not be afraid of submitting an amalgamation case to a tribunal of this kind, all petitioners of course being entitled to be heard before it, because it becomes so very much a question of calculation.

119. Sir *John Shelley.*] (To Mr. *Adair.*) When you say "in the interest of the public," do you mean as regards the continuous running of trains through a district, or in what way?—I mean, first of all, that in cases of amalgamation, the House has to consider great objects of public policy; it has to consider whether it shall hand over a certain district to a particular company; it has also to consider the manner in which the manufacturing and mercantile interests of that district shall be served; whether the use of the powers under the amalgamation may not prejudically affect the existing interests of the public, to the encouragement of a neighbouring and competitive district, where the manufactures are of the same kind, and where the amalgamation is not in operation. There are numerous cases in which an amalgamation requires great consideration, and particularly inasmuch as an Amalgamation Bill fixes the tolls upon which the whole trade of a district is for ever to be conducted.

120. An amalgamation doing away with competition?—Practically it is so; I recollect a case which I had the honour of hearing, the St. Helen's case, where the line was leased to the London and North Western Railway Company for 999 years. That was a practical amalgamation, though it was only called a lease, and the great question which the whole of the manufacturing district in Lancashire had to consider was, that of the tolls, which should operate for the future on the transport, both the export and the import, of all their manufactured and raw produce.

121. Still, with reference to amalgamation, is not the first object to be considered by Parliament the question whether competition is or is not a good thing, and whether a district is to be handed over to one company, or not?—That is one out of the numerous objects to be considered, but, at the same time, I do not mean to say that I do not regard the Court of Referees as perfectly capable of considering such a question, though the House might not like to withdraw so large a consideration from the purview of their ordinary Committees. (Mr. *Hassard.*) I should wish it to be understood that the answer which I have given is upon the supposition that the tribunal of Referees has an intimate connection with the House in the same mode as a Committee now has.

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122. *Chairman.*] That is to say, that it is presided over by a Member of this House?—Yes.

123. Mr. *Hardy.*] The question between you and Mr. Adair seems to be, whether you shall try the matter of public policy in the amalgamation, or whether you shall merely try the legal rights of the parties, and what shall result from those legal rights?—Yes; practically now, the Committee do try the question of public policy, and I am proposing that the Referees shall have the same intimate relation with the House as the Committee have.

124. Sir *John Shelley.*] Do you not think that the question of public policy, and whether or not the House shall allow competition in a district, is the main point of fighting on most occasions, and that one Committee will decide that competition is a good thing, and another will decide that it is bad, and so parties are led into difficulties. (Mr. *Adair.*) There are, no doubt, different views of the question of competition taken by different Committees, and I apprehend that the same might be said of the different members of the House itself.

125. Mr. *Hardy.*] But that is, of course, relatively to the particular schemes before them, and not as an abstract question?—Of course. I can imagine cases in which amalgamation may be very good, and others in which it is only a partial development of existing resources, where a traffic is starved by it, as my honourable friend says, and where districts are undeveloped.

126. Mr. *Lowe.*] I have heard it objected to the Referees, that they very often do not make declarations, either one way or the other; but say that they have no objections to the engineering, except the following; and then state half-a-dozen very cogent objections, and send the Bill to the Committee. Has that been the case. (Mr. *Hassard.*) It has been the case in some respects; but I think that that alludes particularly to the jurisdiction of the Committee. I do not know whether your refer particularly to cases of junctions.

127. I speak generally?—There are cases in which there are objections to the engineering; but a mode of getting over those objections is very clearly shown, still it is not one which the Referees can entertain. A Committee may, in their wisdom, give permission for a certain deviation from the deposited plans, and for the works to be constructed in the way proposed; if they be so constructed, the difficulty is got over; but the Referees can only report that there is an alternative, leaving it to the Committee to decide whether they will, or not, allow that alternative to be adopted.

128. In the case of the Bill for the widening of Hamilton-place, was not such a report made?—I do not know. (Mr. *Adair.*) I heard that Bill. We were first of all invited to take into consideration the proposed engineering scheme, which involved such a lowering of the road as to alarm the occupants of some of the Hamilton-place houses as to the safety of their cellars. However, on the assurance of the learned counsel, representing the Metropolitan Board of Works, that they did not intend to alter the level of the road, we had merely to consider the question of estimate. We considered the question of estimate, and we reported upon the sufficiency of the estimate for the works proposed; but we certainly added that, in the consideration of the question of estimate, we had had such different and irreconcileable values placed upon the same properties, that we had great difficulty in arriving at any conclusion; that, in fact, the value of the properties in this particular locality, and occupied under those peculiar circumstances, was so much a matter of personal comfort and sentiment, and feeling, that it made it quite an unusual case.

129. What was the effect of your report?—We reported that the estimate was sufficient for the works proposed to be authorised by the Bill; that kept the scheme alive, and handed it over to the consideration of a Committee of the House.

130. But at the same time did you not report that you had no confidence in the estimate?—No; we could not report that we had no confidence in the estimate if we reported it sufficient, which we did. The mere fact of reporting it sufficiently showed that we had confidence in it; but inasmuch as we were, according to the Standing Orders, to state the facts upon which our opinion was founded, we thought it necessary to draw the attention of the Committee to the great difficulty which we had experienced in arriving at our conclusion. We did arrive at a conclusion, to which we were perfectly prepared to adhere; but we stated the great difficulties which we had in arriving at that conclusion from the peculiar nature of the property, the value of which we were called upon to consider.

131. I think

131. I think that that report really withdrew the estimate from the consideration of the Committee?—It was the intention of Parliament that it should; what view the Committee in their own minds might take of that report, it is of course beyond my power to say.

132. Mr. *Hardy.*] (To Mr. *Hassard.*) As I understand you to put it, you think that a question, even involving the public interests, might be submitted to the consideration of this sort of tribunal?—That is a question to be determined as to the constitution of the tribunal. If the House is willing to constitute a tribunal of its own members, which shall have the same power as its Committees now have, I do not see why it should not try every question which a Committee now tries.

133. It would, in fact, be a sort of permanent judicial tribunal of the House?—It would.

134. Sir *John Shelley.*] I understood you to say that when you first started, you called upon the opponents to commence the business by stating their objections to the scheme?—In the first place, as far as we could give them notice, we required the allegations of the petitions to be very specifically drawn, and then we required the opponents to point out the particular paragraphs in the petition upon which they relied in opposition to the Bill. We required them to commence, and, supposing that they said (if it was a bridge) that the scheme was defective because the bridge could not be constructed at the place pointed out, inasmuch as there was no foundation, we then required them to point their evidence to the specific defects assigned in the petition. They were obliged to finish their case, and then the promoters of the Bill in reply rebutted that case and stated their own. But I must say that the following difficulty very often arose by compelling the opponents to commence; probably the objection alleged by the opponents was a good one as against the plans deposited, and in order to avoid the force of it, it was a very common practice for the promoters to come with an amended scheme. I should say that the opponents' case must be, to a great extent, hypothetical, because a plan and section do not disclose the detail of the work. Of course the opponents were obliged to suppose that the work was to be executed in a given manner, say with rubble, or with some peculiar material. Although the promoters probably originally intended (for this case arose before me) to execute it in that manner, yet when they found that there was a valid objection to their so doing they, on coming to make their own case, proposed to execute the work in a different manner from that originally proposed by their own Bill.

135. In a public point of view, is there any objection to that?—This difficulty has happened upon it, that the opponents have not an opportunity of discovering whether that is really a feasible mode of constructing the work or not, because they have to begin unless you permit them, as in one case we did, to go into a rebutting case, and to show that even the amended scheme is not feasible.

136. (To Mr. *Adair.*) With regard to an alternative line, looking to the public interests, would not your objection be met, provided that the Committee was bound to refer back to the Referees the case to which you alluded, where an alternative line was set up before the Committee, which had not been considered by the Referees?—The merits of the case would be satisfactorily met; but I maintain that it was not the intention of Parliament that any Company should try the Court of Referees with a scheme, and if they failed there, should then assist their scheme by amending it within the power of the Standing Orders. The practical result, if the alternative line were submitted to the Referees, would of course be the same as if it had been before them in the original instance; but then the Committee will recollect that there would be an increase of the expense, which is one of the great objections which is alleged against this tribunal; an increase of expense voluntarily incurred by the parties who complain of it.

137. Were there not two objects in the establishment of the Court of Referees; was not the decrease of expense one object, and was not the decrease of time occupied another?—Those were the two leading objects, rather, if I may be permitted to observe, inverted by the Honourable Member. The intention of the House was the saving of the time of the Committees of the House. The first object, as I understand it, (I may be in error) was not the diminution of expense, though that of course was not to be disregarded.

138. Mr. *Hardy.*] From your experience as a Chairman of Committees, have you found, as a Referee, that more prominence has been given this year to the

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questions of engineering and estimate than would have been given before Committees?—Undoubtedly; and one of the results of that prominence has been to show that deposited plans have not hitherto been prepared with as much accuracy as was desirable, and in some cases, as my honourable colleague suggests to me, actually not in compliance with the Standing Orders.

139. (To Mr. *Hassard.*) Do you concur in that view?—Quite. (Mr. *Adair.*) But I have no doubt that one of the immediate results, if the Court of Referees is continued, will be that deposited plans will be prepared with much more accuracy, and will so thoroughly raise, or enable to be raised, the point in issue on engineering, that the time which has even now been saved, according to my view, in engineering investigations, will be still further shortened. The more accuracy you get in your legal and in your engineering proceedings, so much the more will you discourage many schemes which ought never for a moment to be brought before the House.

140. To what do you attribute the fact that before the Committees those questions have not hitherto been sufficiently investigated?—I think that the general tendency of the manner of conducting the business before Committees has hitherto rather been to lead the parties to say, "We will not contest the estimates; we admit the estimates, and we have not much to say about the engineering;" but when they found that they could, by prosecuting an inquiry into the engineering and the estimates, in the first part of the scheme, preclude, by the possibility of a hostile report, any investigation into the merits of the scheme, they immediately addressed themselves to the engineering and the estimates, as practically producing the same result, and perhaps throwing out the Bill by a much less expensive process.

141. Mr. *Milner Gibson.*] It affords a new opportunity for opposition?—Yes, and a less expensive opportunity of defeating a Bill proposing to construct works which cannot be constructed under the deposited plans.

142. (To Mr. *Hassard.*) Have you found any difficulty in ascertaining what the actual jurisdiction of the Referees is; has the definition of the jurisdiction which is contained in the Standing Orders appeared to you doubtful as to its meaning?—I do not think that we find any practical difficulty in deciding the point, but the question has been raised several times, especially upon the second and third paragraphs of the Standing Order No. 90, in cases of Water Works and Gas Bills. The question has very often been raised as to whether engineering enters into them, and especially in the case of Gas Bills, and I have considered that it is very important that it should be entertained, but I think you will find that with regard to Gas Bills there is very great doubt whether the Referees have the power to inquire into the engineering. There is such a thing as the laying of the mains, and actually upon that will sometimes depend the site of the gas-works, as to whether they have to overcome a hill, between the manufacture of the gas and the point of supply. As I have read the Standing Orders I think that we are precluded from going into that question. The words are, "the amount of the pressure"; in fact, that question of pressure has never been raised for that reason.

143. *Chairman.*] Surely the amount of pressure is strictly engineering?—But engineering is not included under this paragraph of the Standing Order; the engineering details seem to be confined to the first paragraph of the Standing Order, and that is in the case of Bills of the second class. Now Gas Bills are not in that class, and that is a question which is continually raised.

144. Mr. *Milner Gibson.*] Does not it apply also to water-works?—It does, to some extent; but I think that water-works are included in Bills of the second class.

145. Are there any instances of your opinions being overruled by the Committees?—Of that I know nothing. I should rather think that they have not been.

146. You would consider your opinion upon the sufficiency of the estimate conclusive upon the Committee?—Yes; I think that it has always been held so. From all that I have been able to gather from the Chairmen, I think that the decision of the Referees, upon the point of estimate, has always been considered final.

147. Mr. *Woodd.*] It could not well be that your decision could be over-ruled by the Committee, because your decision lies in the last few words of the report, which is conclusive?—Yes.

148. Mr.

148. Mr. *Milner Gibson.*] Does the Standing Order appear to contemplate that your opinion should be held conclusive upon the sufficiency of the estimate?—I think that it is conclusive upon the sufficiency of the estimate.

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149. From what do you derive that view?—From the words, that the Committee shall not inquire into any matter which is reported upon by the Referees.

150. Will you read what is said in the Standing Order upon which you found your opinion?—At the end of the Standing Order No. 91, the following words occur: "No further evidence shall be taken by the Committee to prove or disprove any of the facts reported by the Referees." Now, the decision of the Referees upon the question of estimate is generally expressed in these few words: "We are of opinion that the estimate is (or is not) sufficient for the works proposed."

151. Does not the Standing Order say that you are to accompany that opinion with the facts upon which it is founded?—Yes; but I do not think that that refers to estimate; at least, practically, it has never been so. I do not see how you could well embody in your report the facts upon which the sufficiency or unsufficiency of the estimate was founded, without going into a specification, and into an elaboration of details which would be impossible; because that sufficiency or insufficiency is made up of an aggregate of a very great number of divers facts, prices, and quantities.

152. Do you draw no distinction between facts and opinions?—Yes; but I do not well see how you could put facts which would bear upon that matter.

153. By this Standing Order, as I read it, you are to be conclusive upon facts; no further evidence is to be taken to prove or disprove any of the facts which you have reported; but why do you think that your opinions, founded upon those facts, are conclusive, and that the Committee is precluded from forming its opinion upon those facts?—We report, as a fact, that the estimate is insufficient.

154. But you report certain opinions upon other points besides the insufficiency of the estimates, do you not?—(Mr. *Adair.*) We only report either that the estimate is sufficient or insufficient, or that the works are unobjectionable in an engineering point of view, or are objectionable in an engineering point of view. (Mr. *Hassard.*) If you look at the words of the Standing Order, you will see that in our reports we have always endeavoured to follow the words of the Standing Order as closely as possible. We report that the engineering details are unobjectionable; that the works are efficient for the object proposed, and that the estimate is sufficient for executing the same, or the contrary.

155. The Standing Order says that you are to state to the Committee the facts upon which your opinion is founded, and that they are to take those facts as conclusive. Why do not you report the facts to the Committee upon which your opinion is founded?—I think that where we report against the engineering, we in general report the facts, because we put our finger, as it were, upon the failure of the part of the scheme as it is proposed; but where we report that it is not objectionable, I think you may take it that the scheme as propounded composes the facts which are alluded to.

156. In fact, you do not think that there was any intention in this Standing Order to draw a distinction between opinion and fact?—I think not, in that respect. I do not see how we can well separate them without going into an elaboration.

157. Mr. *Ingham.*] You do not feel yourself called upon to give evidence of the fact?—No; and we do not do so.

158. *Chairman.*] Would it not be better to state in your report upon the question whether the estimate was sufficient or insufficient, by how much the estimate was deficient?—I think that it would be very difficult to do that. If the estimate comprised a number of different works, we might, as we have sometimes done, divide the estimate, and report that a portion of the estimate was insufficient for certain works, but it has never been done except in a peculiar case, and I do not think that we could well do it; in fact, it would be ascertaining too closely facts which are founded upon the opinions given by adverse engineers. In gross, the evidence given to us has led us to a conclusion, but we should find it very difficult to divide it into the minute particles. (Mr. *Adair.*) I may venture to mention to the Committee that in one report which I made, I drew the attention of the Committee upon the Bill to the very small margin which

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the estimate presented in comparison with the large amount of the whole estimate. We were satisfied with the estimate, because it showed a surplus, but the surplus was so very small that we thought it our duty to draw the attention of the Committee, who were to hear the Bill on the merits, to the small margin which the estimate left.

159. (To Mr. *Hassard.*) Does not it place the Committee who have afterwards to discuss the merits of the Bill, in some little difficulty, if the Referees merely report that the estimates are or are not satisfactory, but do not state whether it is to a large or a small amount. For instance, supposing that a railway is submitted to the Referees, and you find that the estimates are only to a small extent below what you would require, you, in reporting that circumstance to the Committee, state that the estimates are insufficient?—Yes.

160. Then, does it not raise the difficulty with the Committee, that in a case where the estimates are only slightly below what they ought to be, the Committee might overlook it; but would not do so if the deficiency was to a serious extent?—I do not know that, because if the estimates be insufficient at all, either the work cannot be executed, or it can only be executed by coming to Parliament for an increased amount of capital in another year.

161. Mr. *Bouverie.*] But a slight insufficiency has not been considered a fatal blot upon the scheme before Committees?—In very few cases was the estimate challenged when I was Chairman of a Committee; but I think that if the estimate was shown to be largely insufficient for the execution of the work, it was fatal to the Bill.

162. Sir *John Shelley.*] (To Mr. *Adair.*) In the Hamilton-place case what objection was there to making such a statement in the report, that the Committee might know the grounds upon which you proceeded?—In the Hamilton-place case there was not only involved the particular value of certain houses and gardens to be taken, but very large legal questions as to compensation were involved. If we had decided that a claim for compensation did arise, extending through the whole length of Hamilton-place, the estimate naturally and instantly would have been insufficient; but that was not within our province to decide, it was for a court of law to decide whether compensation would arise or not. Therefore we dealt as well as we could with the substantive value of the houses proposed to be taken, and we were satisfied that their value was fairly within the estimate which was proposed by the promoters of the Bill.

163. What objection would there have been to stating, in order to guide the Committee, that as regarded the value of the houses to be taken, the estimate was correct, but that in the event of compensation being given it would not be correct, so as to have led the Committee to know what to do?—We were not called upon to pronounce authoritatively what was the law. There is no question, perhaps, notwithstanding one decided case by a court of appeal, which is a more *vexta quæstio* than the right of compensation with regard to metropolitan property taken or dealt with for public improvements, whether of streets or of railways.

164. *Chairman.*] Do you recollect in that Park-lane case what the amount of money devoted to compensation was?—The whole estimate was 12,000 *l.*, if my mind serves me correctly, and I think that the sum for the construction of the road itself amounted to 3,000 *l.* or 3,400 *l.*

165. Sir *John Shelley.*] Still I wish to know, as the object of your report is to assist the Committee, and to shorten their labours, what objection there would be to your stating for their information that the estimate as regards the value of the houses is sufficient, but that in the event of large compensation being given it is insufficient?—I am not quite sure whether there is not some reference to that in the report itself; the Honourable Member can send for the report, but whether it were there or not I would venture to submit that the Committee would be no further advanced towards the decision of the legal point, unless they were prepared to say authoritatively, "This is a compensation case," or "is not."

166. Mr. *Hardy.*] You have been asked with regard to your interpretation of the 91st Standing Order. As soon as you have completed your inquiry you are to make your report upon the same to the House. You have not made your report, giving the particular matters which have led to your report, but you have treated the findings upon engineering and upon estimates as facts in themselves?—Quite so; it would be endless if we were to go into the details and into

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an analysis of the evidence, we should not be able to get on with the cases at all. My own practice in drawing a report is to state the allegations of the opponents, the answer of the promoters, and then our own finding upon that issue. (Mr. *Hassard.*) I might perhaps be allowed to say that in particular cases, sometimes notice is taken of particular circumstances; for instance, in the case of the Bute Docks, where the docks were to be erected on a part of the foreshore, I think 112 acres of which were proposed to be inclosed, we reported specially that the Marquis of Bute, whose trustees were the promoters of the Bill, claimed this foreshore to be his property, and that therefore they had not provided any sum as compensation for taking it, stating at the same time that the Referees were not in a position to decide whether he had or had not rights to inclose; and further, we reported, even as to the mode in which certain embankments were to be made, that they were to be made of ballast, which was to be discharged, and for which no sum was to be allowed, is at present going to waste.

167. I suppose that in the Hamilton-place case the plans and sections, as put in by the promoters showed what they proposed?—(Mr. *Adair.*) Quite so.

168. Those were the facts?—Yes.

169. And you left out all the questionable matters?—Yes; it was not for us to lay down arbitrarily whether it was a compensation case or not. The estimate, if I may be permitted to state it, is the money provided for the construction of the works proposed to be authorised by the Bill; and anything outside and beyond that it appears to me is not a question for the Referees to consider.

170. Then, would it not be necessary, with a view to ascertain the precise situation of the question, to report in some way upon the claims which opponents set up as affecting the course of the Bill afterwards; for instance, in the Hamilton-place case, might you not say "Taking the plans and estimates of the promoters of the Bills, we think that the estimates are sufficient; the opponents have chosen to raise a question into which we cannot enter, but if it can be entered into, the estimates are not sufficient"?—Such an intimation as that might undoubtedly be introduced, but it would seem to me, nevertheless, that the gist of the report is, whether the money proposed to be raised by the Bill is sufficient to execute the works proposed to be authorised under the Bill.

171. But still, in any great work, supposing that the opponents set up that a great deal of property not scheduled, or not dealt with by the plans or estimates, would be injuriously affected, would not that be a proper subject of inquiry by the Referees in ascertaining the probable cost of the works?—With regard to injuriously affecting property, there is a remedy provided for that at common law.

172. But still, does not it very much affect the estimates?—Usually, practically, during the construction of works, all contracts are so made that if any property is injuriously affected it falls upon the contractor to make it good, and it consequently forms no part of the actual estimate itself.

173. That only removes it one degree, does it; the contractor would have to take the works at a higher rate in consequence of having to pay for what is injuriously affected?—In all estimates you require evidence as to the value of the house property taken, or severance, or any compulsory dealing with property, but the moment that a line is interposed in a property, the property on one side of it stands in a very different position, and comes within our cognizance, whereas the property on the other side does not.

174. With respect to the particular report as to Hamilton-place, should you not anticipate from the form of that report, that the Committee would go into the question whether the estimate was sufficient or not?—I do not know why the Committee need have done so, because we reported that the estimate was sufficient for the works.

175. Sir *John Shelley.*] If you turn to that report, you will see that you reported that you were not prepared to say that the estimates were insufficient?—That we were not prepared to say that they would prove insufficient for the purpose of the required compensation, not of the construction.

176. Mr. *Ingham.*] With reference to the estimates, some question has been put to you as to whether or not you ought not to find more specifically upon what portions of the estimate your opinion is built; is it not the practice always in Committees to control the counsel when he is examining into the sufficiency of

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the estimates, and not to permit him to put any questions for the purpose of ascertaining what value you apportion to particular works?—No doubt that was the practice of Committees when they heard the question of estimates, and the practice in the Court of Referees is this, that as regards the construction of works there may be a very detailed examination on the subject, but the moment you come to deal with the land, or severance, or houses, you do not permit more than general evidence, and you do not allow opponents by an exhaustive process to arrive at approximate value, which may be used hostilely to the promoters on a subsequent occasion. (Mr. *Hassard.*) I might mention perhaps that in particular cases we have pointed to a contingency of the estimate becoming insufficient; in the case of the Birkenhead and Liverpool Railway, we found, I think, that the estimate was sufficient for the works proposed, but then it was alleged that possibly things might happen, for instance, heavy irruptions of water might take place, when the estimate in that case would be insufficient; but we considered that the occurrence of that to be so uncertain, that we did not think it just on the promoters to provide for that contingency.

177. Colonel *Wilson Patten.*] Still this difficulty does arise, that when the Referees make a report of only "Insufficiency of estimate," it does place the Committee in some little doubt as to what course they ought to take, having no knowledge of the extent of the insufficiency with which they have to deal?—Quite so; but I venture to think, if an estimate is insufficient, the amount of insufficiency has nothing to do with it; it does not support the works proposed to be constructed under the Bill, which alone is the object for which they come to Parliament; and my opinion is, that it ought to be fatal to the Bill if they cannot construct that for which they take exclusive Parliamentary powers to prevent others from attempting to construct.

178. You would make it a *sine qua non* in every Bill, that the estimate must be absolutely sufficient for every purpose?—Quite so; and I would venture to say, that if the Court of Referees be continued, and they have the consideration of the question of estimate, estimates will be framed with much more accuracy, with much more satisfaction to the promoters, and also to those who may have to hear the inquiries, than they have been during the present Session.

179. Mr. *Woodd.*] Has it ever occurred to you that parties have, when making their estimate insufficient, proposed to cut off part of their works, so that the estimate should be sufficient?—Yes, when presiding over a Committee.

180. But as Referee?—I do not think so in that case; it did occur in a case where a double work was contemplated by the Bill, but in that case there was a portion of the estimate assigned for that work; that work was abandoned; we struck out the correlative part of the estimate and proceeded upon the part left; we always adopted the practice of striking out an equivalent portion of the estimate.

181. The case I referred to was that in which the estimate was found to be insufficient, and where they proposed to leave out a part of the work, so that the money should be sufficient for the remainder?—(Mr. *Adair.*) A case occurred before me this Session which, in practice, may lead to a disregard of the Standing Orders of Parliament. A Scotch company proposed to construct a certain work, the estimate for which was a certain sum; the company abandoned a considerable portion of their work in deference, as was stated, to the opposition they met with from other companies, and they then came before us with a reduced estimate: we had to consider the whole estimate for the original scheme, and then to subtract, as well as we could, the value of the abandoned part of the scheme, and then to find whether the residuum of the estimate was sufficient for the residuum of the works; but the consequence might have been that the original estimate would have been quite insufficient for the whole scheme, and yet they got through a portion of the scheme by abandoning that for which their whole estimate would not have been sufficient. I only direct the attention of the Committee to that because it is one of the numerous ways in which great difficulties may arise.

182. Mr. *Bonham-Carter.*] I think I understand that your practice is to begin with the deposited plans before you?—Yes.

183. And upon that the opponents start their case?—The opponents start their case.

184. Does it in practice occur that, after the opponents have begun upon the deposited plans, the promoters have come in with a varied plan, either provided beforehand

beforehand or modified upon the line of opposition, which the opponents have taken before you?—In many cases it has been so; but the practice is that we take the plan as deposited cotemporaneously with the Bill, for that is what is submitted to Parliament as the works proposed to be constructed by the Bill; and further, we consider that we are not a Committee to authorise any alteration whatever; that we have none of the powers of a Committee in dealing with a Bill; that we are simply there to examine certain plans and a certain Bill, deposited in pursuance of the Standing Orders of the House, in a certain stage of the case, that we have none of the powers or authority of a Committee; because, as my honourable colleague suggests to me, most of these alterations must be the subject of a clause which we have no power to suggest or to introduce into the Bill.

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185. Supposing the promoters come before you with certain variations from the deposited plans, how far do you consider yourselves competent to entertain those variations?—We have entertained them where they have been proposed to be carried out within the limits of deviation, but always by consent. (Mr. *Hassard.*) That is where the consents of the parties owning the land over which the deviations are proposed can be had.

186. Colonel *Wilson Patten.*] That is the only power which a Committee has?—Not entirely so.

187. Mr. *Bonham-Carter.*] (To Mr. *Adair.*) In your practice on Committees, have cases arisen, where modifications of the line have been proposed, the Committee has suspended its operation in order to introduce those improvements which have arisen in the course of examination?—My recollection will not serve me to answer that question. (Mr. *Hassard.*) The way in which it is done is by additional provision. I have had occasion to suspend the action of the Committee over a month in order to obtain the consent of the Commissioners of Supply in Scotland.

188. Does not the present practice of the Court of Referees preclude the possibility of that procedure except by re-reference?—I think it would.

189. Supposing that the Committee, in the course of an examination of a Bill, perceived that a modification, such as that of carrying a bridge over a road instead of under it, could be met in the interests of the public by an additional provision, would the practice of the Court of Referees seriously interfere with the power of the Committee to entertain that question?—I think not, within the limits you have mentioned, such as substituting an over bridge for an under bridge. Any work to be executed within the limits of deviation could be executed, and the Referees would entertain it as an alternative line, and report upon it as such.

190. A case occurred the other day in the House with reference to a bridge, in which I think the report of the Referees was not merely with reference to the sufficiency of the bridge for its purposes, but there was also a statement which was clearly intended to be left to the Committee, that there was an interference to the navigation. As I understood it, the question left to the Committee was, supposing the estimates to be sufficient for the bridge, as a matter of public policy, whether the interference with the navigation was more than sufficient to justify the public advantage of the railway?—Yes.

191. Supposing such a case as this, that the Referees had reported that the bridge did not afford sufficient headway, or sufficient width, would it have been competent for the Committee, if it had been shown to them, or if they had desired that an increase of headway or an increase of width should be granted by an Act, to enable the carrying out of the undertaking, or could it only have been done by a re-reference?—I think if you look at the report upon one of the Furness lines, you will find that that case did arise. The Referees reported that the bridge, as proposed, was insufficient in span, because the place was very exposed, but that the objection would be obviated if the span of the bridge was increased by so many feet.

192. You do consider that you are entitled under the Standing Orders of the House, without travelling beyond your province, to suggest, in the interests of the public or of the promoters, improvements of that character?—Yes; within those limits I have frequently done so, and they have been adopted.

193. Taking the case of one of these great bridges which Mr. Adair and yourself have severally entertained; supposing you should find that the engineering question was satisfactorily solved, but that the amount of estimate fell short by some

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some not very large amount, should you have felt yourselves entitled in such a case as that to state particularly the amount of that defect?—No; because if the estimate fell short, although the engineering might be good, it could not be carried out under the Bill, and might be deteriorated, perhaps, in order to bring it within the estimate; I think in some cases we have reported there were no engineering objections to the Bill, but that the estimate was insufficient.

194. Supposing you had reported the other way, that a greater span and a greater height were required, but that the estimate would not be sufficient for that purpose, should you feel yourselves justified in reporting that, and leaving the Committee to go into the general merits and refer it to yourselves?—That would depend really upon the construction of the Standing Orders, whether if the parties brought in a scheme which required to be so modified, they could be considered to have complied with the Standing Orders.

195. The point to which I wish to direct your attention is, whether the interests of the public are at all limited by the very close limitation of the Referees to deposited plans?—No, I think not; because, in the case you put, I think it would have been my duty, so far as my colleagues coincided with me, to have reported that the scheme propounded was insufficient or dangerous, but that a modification of it had been proposed in such a manner, and then to state that this modification might obviate the objection. I do not think that the Referees have considered themselves bound by such rigid rules, that if they see a decided public advantage, they are not at liberty to put the scheme before the House in that form. (Mr. *Adair*.) I can give you an instance of a report which I signed in the case of a bridge over the Severn, where we reported that the bridge proposed did not meet the requirements of the navigation. We required spans of a larger dimension, and differently distributed, but before we reported that, we ascertained that the estimate was quite sufficient to bear the expense of the altered construction.

196. Supposing you found that the variations which you, in the interest of the public thought necessary, were not covered by the existing estimate, should you have given the detail of those variations?—No, because I have reported that the work was insufficient in an engineering point of view, because the estimate would not construct an efficient work; none other can be executed under the Bill, therefore if the estimate cannot construct an efficient work, the work itself is necessarily inefficient.

197. If it appeared upon the evidence before you that a certain bridge was a proper way of passing over a river, but that 10,000 *l.* or 20,000 *l.* more was required for the purpose, and for the public interest, would you still feel yourselves precluded from reporting upon it?—We have nothing to do with the public interest. We are only called upon to say, can it be mechanically constructed? It is for the Committee to say whether the public interest requires it. We have nothing to do with the public interest. We are there simply to say whether, in an engineering point of view, a bridge according to the deposited plan can be constructed in a certain manner for a certain sum of money. It is, "the efficiency of the works."

198. A case arose the other day in which a motion was made to the House to refer back to a Committee a Bill which they had declined to entertain on the ground of the decision of the Referees; and one of the arguments for referring it back to the Committee was that considerable modifications in the works decided upon by the Referees would be introduced in Committee; how would that work if, in practice, that were to prevail, that certain works being submitted, those works not being found satisfactory, there should be a fresh scheme within certain limits submitted to the Committee, that Committee being called upon to meet the alteration, either by additional provision, or within their powers, and it being again referred back to the Referees; do you think that would be prejudicial to the operation of the court, and if it is desirable in the public interest that improvements should be suggested in the course of proceedings; are you of opinion that anything could be done with regard to regulating that?—In my opinion it would be enabling the same parties to submit two schemes. If their first failed they would try another; and I apprehend it is not the intention of Parliament to permit that. My opinion is that estimates should be carefully framed; that plans should be well considered; and that by those plans and by those estimates the parties ought to stand or fall.

199. You do not think that it would be permissible, or should be permissible, to

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to promoters, if they find that, before the Referees, certain weak points in their scheme are shown, that they should be allowed to amend those schemes?—I think no practical injustice would arise from their not being permitted to do so. If their scheme be imperfect they would be compelled to withdraw it, having incurred but a small expense, from the early period at which the inquiry takes place; and time for consideration will be given, and a more perfect scheme, with more general assent, and with more advantages, might be the result of another application to Parliament.

200. Would you give no power whatever to the Referees to vary from a scheme as originally submitted to them by the promoters?—I do not say so to the full extent, but I would restrict it within the limits of deviation, as we have practically done this year, because, otherwise an inquiry which takes place before the Referees would not be a sort of test of what the scheme is worth. It fails in a certain point, and then the House would be called upon to cure the failure, and to authorise another application to the tribunal. The result of that would be a complication of business, and, it may be, a detention of other cases. In fact, the effect would be that a party would have a pre-audience of the Court by coming twice, when other parties have not had an opportunity of being heard at all.

201. I think I understand you to say that such an evil would be likely to cure itself by the additional care which the practice of the court would induce?—I have no doubt whatever, and I believe I have professional authority for saying one thing, which is this, that if the Courts of Referees go on, deposited plans will be drawn with an accuracy which will render them almost unimpeachable on engineering grounds, and I think the means of approaching the Court of Referees by petition will be very much improved; distinct issues will be raised, and the business will assume a very manageable and satisfactory form.

202. (To Mr. *Hassard*.) You gave an opinion upon certain heads which might be submitted with benefit to the Referees; has it ever entered into your consideration whether it should be competent to you to make inquiry into the financial arrangements?—That is very much more a question of policy to be determined by the House at large; not even by Committee. We know there has been a great change in the mode of getting up schemes from the mode which was adopted at the original reception of those things. We must go back almost to the beginning of railway schemes, where a scheme was got up because the locality required it; persons in the locality subscribed, showed their confidence in the scheme, and their desire for it by giving their money, just as would be done in the case of a new road now. Those circumstances are all changed now; we cannot shut our eyes to the fact that there is a class of engineers, no doubt useful to the community, who have to live by this particular business. I have no doubt that it will be within the knowledge of my colleague that, in this Session, lines have been got up not more than two miles in length, connecting lines which now cross each other in the suburbs of the metropolis, beginning, one may say, nowhere and ending nowhere, with no stations at either end, and with no power to run into any station. No company could work them, and the only possible object they could serve would be, if the parties got the Bill, to compel one of the adjacent lines to purchase them. I should say that the question of finance is more for the examiner.

203. Colonel *Wilson Patten*.] I presume the case you have just mentioned is a very extreme case?—I have had two such cases this Session.

204. Sir *John Shelley*.] What harm was done in a public point of view?—I do not know that any harm was done, but surely it was occupying the time of the House in a way that was never contemplated.

205. Colonel *Wilson Patten*.] There is a great objection to people's property being sacrificed without any ostensible object?—I would say that it is not the business of the House to find articles of commerce for speculators.

206. Sir *John Shelley*.] Those were exceptional cases?—I have taken those out as the strongest cases, but I could give you any number of cases fining off to *bonâ fide* schemes.

207. Mr. *Bonham-Carter*.] Are you aware that Committees do inquire into the deposits or into the finance condition?—I think as a general rule they do not inquire into it at all, but at the same time if a *bonâ fide* subscription contract be tendered, as has occurred to me, showing that the line has been got up in the locality, and that there is a demand for it, it weighs with the Committee.

208. Do you think upon the whole the inquiry into that particular feature of

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the undertaking would be wisely removed from the Committees, and referred either to the Referees or Examiners?—I think it would be better if referred to the Examiner, the House having first determined what course it would adopt.

209. Mr. *Hardy*.] Do you think the House could devise any plan for preventing speculators getting up schemes?—No, I think not.

210. Mr. *Milner Gibson*.] (To Mr. *Adair*.) I think you said that these new courts had created work and caused investigations to take place that had never taken place before?—I beg your pardon; in one sense I did say that it created work, that is to say, in my opinion, there had been much more searching investigations into that particular class of inquiry, into which Committees have always had the power of entering if they chose. I did not say that it created any new head of inquiry, but that it caused a more frequent application of an already existing power.

211. You do not say that they have created any new head of inquiry, but that they have gone into investigations which Committees, perhaps, would not have thought necessary?—I will not say Committees might not have thought necessary, because Committees are very apt to take the opposition raised against a scheme from the opponents. If I may so say, they do not very often, unless they have a particular reason for doing so, take a particular line of inquiry of their own; they are content to receive the grounds of opposition as submitted to them by the opponents to the Bill.

212. Many of the facts that are inquired into before the Referees may be such facts as the Committee may not think material to inquire into?—Just so. As I said before, it seems to me that there have been more cases of engineering and of estimate contested this year for two reasons, because it was known they would be inquired into thoroughly before the Court of Referees, and because it enabled them to attack the Bill in its first stage, and possibly to defeat it on its engineering faults or its financial arrangements at a comparatively small expense. (Mr. *Hassard*.) I think it is not so much that Committees did not consider it of importance as that those questions were not brought forward as grounds of opposition in the same manner as they were this Session.

213. Do you think the constitution of these new courts has thrown further obstacles in the way of new undertakings?—Not if they be sound. (Mr. *Adair*.) Neither, if I may be permitted to say so, have they thrown any further obstacles in the way, because they were obstacles which always existed if the Committee chose to investigate them.

214. At the same time the Referees only enter into those questions which are raised before them; they do not raise any of their own?—Just so; but our duties are so specific that we entertain only two definite questions, that of engineering and estimate.

215. Mr. *Bonham-Carter*.] With reference to Standing Order 90, head No. 1, you have an estimate submitted to you. If that estimate is a general estimate, including works and compensations, you have to satisfy yourself with reference to the amount necessary for the works, and report upon that, and of course the remainder, being the estimate for compensations, and which do not come under your jurisdiction, you are obliged to report upon that, but only incidentally?—Where compensations arise from dealing with the land upon which works authorised by the Bill are to be constructed, that does form a part of the estimate.

216. As being, in your opinion, part of the works?—As being necessary to the works, because you buy the right to construct works on a certain land, or you buy the land upon which they are constructed.

217. But in such a case as the Park-lane improvement, there a general estimate was given to you, a portion of the estimate being for compensations; you were not absolutely obliged to report upon their sufficiency, and you gave an incidental opinion which might be questioned before the Committee?—In the case of the Park-lane new street we considered, in our decision on the estimate, the question of compensation to be paid for property that was taken for the construction of the works proposed to be authorised by the Bill. The Honourable Member will, I am sure, excuse me appearing to be somewhat pedantic, but I must keep to the words of the Standing Order.

218. Insufficiency of estimate for compensation for land not taken by works would have been open to question before the Committee. That would not be one of the facts upon which the Referees would be considered to have limited the

the Committee?—Severance might have been, because that would occur in using the property upon which the works were to be constructed; but anything partaking of an ideal nature would not be a question forming an ingredient in their consideration.

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Thomas Phinn, Esq., Q.C., called in; and Examined.

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219. Colonel *Wilson Patten.*] YOU are practising before Committees of the House?—Yes.

220. And you have been so for a number of years?—For the last eight years.

221. I believe your attention has been latterly directed very much to the Court of Referees?—Yes, very much indeed; before Easter particularly.

222. I believe you practised before the Referees at their first sitting?—Yes.

223. And have continued to do so ever since?—Up to Easter. I have been before them very little since, except on one or two special occasions.

224. Having had considerable experience formerly before Committees of the House, and since that before the Referees, will you state to the Committee your opinion with regard to the benefit, or otherwise, that the Court of Referees have been to the investigation of Private Bills?—I assume that the House had two objects in view in establishing the Referees, namely, saving of time and saving of expense.

225. And especially saving the time of the Members of the House?—Yes; whether in the aggregate time has been saved to the Members of the House, I am not prepared to say, because certainly, the system of Referees has withdrawn from the Committees, two, at least, very experienced Chairmen, who expedited business very much by their decisions; whether in the aggregate time has been saved, it is exceedingly difficult to say, because I quite concur in what I heard stated before I came into the chair, that many objections in point of engineering and estimates are raised, which were not raised in previous Sessions. The discussions of those questions of engineering and estimate, of course, have occupied a considerable time, and whether in the aggregate, putting the time occupied before the Referees, and the time now occupied before Committees together, a saving of time has been effected, it is difficult to determine.

226. Can you give any explanation of the following return. In the year 1861 the Session of Parliament beginning on the 3d of February, there were 246 Bills, and on the 31st of May there were 44 left undisposed of. In 1864 there were, 338 Bills before Parliament, and on the 31st of May, 81 were undisposed of; but in the year 1865, there were 419 Bills before Parliament, and on the 31st of May only 53 undisposed of?—I may say that it is impossible to compare Bills in the bulk, because, with regard to 1862, there were Bills for very large amalgamations before Parliament, and Bills for very long lines of railway, which occupied a very considerable time; whereas this Session, there have been fewer of that class of Bills before Parliament. They have been for shorter lines, and as far as my own practice has extended, with one exception, they have not been Bills which would have occupied so many days as the Bills of previous Sessions.

227. Are you aware that in 1862 only 227 Bills altogether were read a second time?—I was not aware of the number, nor can I speak to particular Sessions, but I know that although the Bills have not been so numerous in previous Sessions, they have been much heavier.

228. Mr. *Milner Gibson.*] Does it not depend upon the proportion the unopposed Bills bear to the opposed Bills?—Of course.

229. Unless we can compare the quantity of opposed business in the different Sessions, we cannot tell what effect the change has had?—No; and I might say that this Session there has been a very great disposition to take the decision of one House as final. I refer particularly to Gas Bills and Water Bills; they have hardly re-appeared in the second House.

230. Colonel *Wilson Patten.*] This Return that I have before me makes no allusion whatever to Bills before the House of Lords. I am only putting it to you whether you can give any reason why so much fewer Bills remain undisposed of this Session as compared with previous Sessions?—I might state the case

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where 12 Scotch Bills were settled by one compromise, I do not think at all consequent upon the decision of the Referees, they were very hostile up to a certain period, and then, all of a sudden, the Bills being promoted by different companies were all settled. That was an exceptional case, but that would affect the total very much.

231. Can you state that there were no such agreements in the four Sessions alluded to?—I do not think the spirit of compromise and settlement was so general in former Sessions. I remember one case in 1862, one of a great contest, being determined by compromise, when the West Midland sought an independent access to London. That was settled by amalgamation with the Great Western, but I do not recollect so many cases being compromised in any previous Session as this Session.

232. Are you aware how many Bills have gone before the Referees this Session, which have not come before Committee afterwards?—No.

233. You have not taken that into consideration?—No.

234. Have you any knowledge of the number of Bills that have been practically decided by the Referees, and only gone through a partial examination subsequently before Committee?—No, I am not aware of the number; I have no access to any return.

235. Therefore, any objection you make to the list which I have just now recited to you is founded, not upon details, but upon general supposition?—Yes.

236. Would you be kind enough to state any objection you entertain to the institution of Referees?—I think, with regard to *locus standi*, it has been in many instances, and, in most instances, productive of good. I should say that there has not been as great an amount of expense saved as might be at first supposed; but, at the same time, I think that this preliminary inquiry has disembarrassed the case before the Committee of a great deal of trouble, and saved the parties some expense.

237. I believe, in former Sessions, it often occurred that the question of *locus standi* occupied the Committee for several days?—I think not several days. I have heard an argument last nearly a day, but then it was in such a way as almost to dispose of the Bill. The only objection I make to their jurisdiction on *locus standi* is this; that by one of the Standing Orders a discretion was given to the Committee to entertain a petition on the ground of competition; the House clearly confided, and intended to confide it to the Committee who heard the merits of the Bill, and it does strike me as anomalous to confide a discretion to a tribunal like the Referees, and to withdraw it from the Committee on the Bill.

238. I do not understand how that occurs?—Committees could only hear opponents on the ground of competition, not as a matter of right, but as a matter of discretion; therefore it was assumed that, in the progress of the Bill, the Committee would see whether it was a case in which competitors for traffic ought to be heard. Here you confide that discretion to the Referees, who do not hear the full statement of the Bill, and do not hear the full statement of the merits of the case. They can only take the Bill, and the details of the Bill, knowing none of the surrounding circumstances; therefore I do not think they have such a set of circumstances before them as to enable them to exercise, in all cases, a proper discretion. Where it is an absolute right, as that of a landowner, or of a person whose land is taken or injuriously affected, then I think it quite right to leave it to such a tribunal as the Referees; but where it is only in the discretion of the tribunal which is to hear the Bill, it seems odd to transfer it to the Referees; and I do not think it will work very well in that respect, otherwise I think the question of *locus standi* has been very well transferred to the Referees.

239. Have you ever in the course of your practice found the jurisdiction of the Court of Referees clash with the investigation before the Committee?—Yes; in one or two particular cases. One was the case to which Mr. Hassard referred of the Whitehaven and Furness Railway. In that case, two rival companies proposed to cross an estuary, one nearly at the top of the estuary, where the river ran into it, and the other considerably further down towards the sea. Objections were taken before the Referees to both proposals of crossing, and the Referees reported that one proposal, which was the proposal nearest to the sea, I think, would not be injurious to the navigation. When the Committee came to com-

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pare the merit of the two schemes, we unavoidably got into the question as to whether it was better to cross the estuary higher up or lower down towards the sea. I contended, and so far successfully contended, that the Committee must take into consideration the whole circumstances of the case, and I submitted to the Committee that it was not within the province of the Referees to determine whether a bridge in a particular place would be more or less detrimental to the navigation. It did not seem to me to come within the scope of their inquiry; it was not "engineering detail," because it was not works proposed by the Bill, and it was not "efficiency of works," because "efficiency of works" means efficiency of works for the purpose proposed by the Bill; the purpose proposed by the Bill being to carry a railway over the estuary, and as it necessarily involved some impediment to the navigation, it was for the Committee, on grounds of public policy, to determine whether the navigation should give way to the railway or the railway to the navigation. I think in all those cases it is very questionable whether Parliament ever meant that their decision as to the impediment to the navigation should be final, or be entertained by them at all. That was the main case in which I found their decision impeachable before a Committee of the House.

240. In that case the Referees had investigated the question as to which was the most obnoxious to the navigation?—Yes.

241. And they had decided the point?—Yes, they decided that neither, in point of fact, interfered with the navigation unnecessarily, or to a prejudicial extent. I forget the exact words.

242. In that case it was left to the Committee to decide, under such circumstances, which was most for the public convenience?—It was obvious that one must interfere, in some degree, with the navigation; the piles must be placed on the spot which ships previously traversed. The opponents to the Bill tried to preclude us by saying that the report of the Referees was final, but notwithstanding we slid into the whole inquiry.

243. The Board of Trade inquired into those things previously, and does now?—Yes; the Board of Trade inquired into those things, and does now.

244. And the Board of Trade Reports are submitted to the Committee, and discussed openly?—Yes; but not submitted to the Referees. I think the Referees in one case said that they could not look at the Board of Trade Report.

245. Have you any other suggestions to make?—I think with reference to the practice before the Referees of only having one counsel, the objection is a very serious one, indeed. In the first place, there is no such limitation known in any court of law; with this exception, that in arguing a demurrer, or in error before the Exchequer Chamber, only one counsel is allowed to speak, but there may be as many in attendance as the clients please. Before the House of Lords two counsel may address the House, and as many may be in attendance as the clients please, and the same with regard to the Privy Council; but in courts where questions of fact are to be discussed, and where witnesses are to be examined, there is no limitation that I am aware of in any tribunal in this country as to the number of counsel; and I think it has worked prejudicially to the clients in this way. Of course, you are aware that the system of general retainer by large companies is very common. Most companies have their seniors and juniors, in whom they have confidence, and whom they always retain, who know the business of that particular company better than any counsel who could be instructed at the time. In fact, half the instructions to a man who is conversant with the company's affairs is equal to double the instructions to a man brought newly in. It is constantly the case that the counsel of the company are wanted to appear before the Referees, and as constantly those counsel cannot wait about in the gallery with, perhaps, three or four cases before them, they not knowing whether those three or four cases will occupy the day, or even two or three days; they cannot be there at the precise moment when the case is called on, so the companies are obliged to instruct counsel new to their business. Then, again, it is very hard that the promoters of a Bill are limited to one counsel, because there may be a dozen petitions, and that one counsel may have to fight against a dozen counsel; he cannot leave the room for a moment without the risk of something prejudicial to his client occurring. I think those things are better left to the discretion of the parties litigant, and unwise to attempt to fetter them by any rules.

246. Does not the same practice exist with regard to the Court of Chancery, The Court of Chancery tries the merits of a case, and, if it wants to elicit facts, it sends it to Common Law to be tried?—That has been found so prejudicial.

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that the Court of Chancery, by recent legislation, has power to empanel a jury, and try the facts. There used to be an issue directed; the heir at law, for instance, was always entitled to an issue, if he alleged a will had been obtained by undue influence, or anything of that kind, before the institution of the Probate Court; now the Legislature has directed that the Court of Chancery shall try its own issues. The Vice Chancellors have complained sometimes that they are new to the practice, and it is too difficult to manage; but, however, they do manage it. They have had Patent Causes tried, and all kinds of causes tried, in the Chancery Courts.

247. In the Committees of this House, when there is more than one counsel present, do those counsel address the Committee upon the same point?—No; it used to be the rule that two should be heard, as in a court of law, if an objection is taken; the senior addresses the court, and if his junior thinks his senior has omitted anything he follows him. That used to be the practice of this House, and is so sometimes now before Election Committees; but I think in the Private Bill business, that practice has become obsolete, and only one counsel is heard on an objection, and in reply to an objection, but we take it in turns very much to examine witnesses, and cross-examine.

248. I understand your objection is merely to the present system of one counsel, and you would suggest that the same practice should be followed in the Court of Referees as is followed before the Committees of the House?—Yes.

249. Upon that point, do you know anything about the comparative expense of the present system before the Referees in that respect?—I was a little surprised to hear an answer given by the Honourable Member for Ipswich. I think you mentioned a case in which very high fees had been given in a very important case, and you asked whether the aggregate of those fees were larger or less than the aggregate of the fees which would have been given, supposing two or three counsel had attended. He thought not. I can only say, assuming the sum to be what I have heard, 100 guineas a day, that that would have paid for the expense of six counsel at the ordinary fees, namely, 10 guineas a day, and five guineas consultation. Those fees are never exceeded. I think I have only known one instance in my own experience where they were exceeded.

250. Mr. *Milner Gibson.*] There is a fee on the brief, of course?—Yes; it is with reference to the day fees that I am speaking; I have known of an offer being made to counsel to devote themselves entirely to one case with a suggestion that double fees would be given, and they have always objected on the ground that they had no right to dedicate themselves entirely to one client to the exclusion of others. I can only answer for myself. In the Forth Bridge case I was asked to attend the Referees, and an intimation was given that it was not a question of expense, but that as I had frequently acted for the party interested, they wished me to attend, and I was obliged to answer, that I could not view it in any other light than that I was requested to devote myself to one client for four or five days to the exclusion of others.

251. And you declined?—Yes.

252. Do you know, in that case, that another counsel was retained?—Yes; the case went on for two or three days, and then it finally collapsed in consequence of this settlement amongst the Scotch Companies.

253. Mr. *Ingham.*] I think it is understood that other counsel may be in attendance to suggest and take notes, though only one counsel can be heard?—I had the honour of appearing in the first case before the Referees, and I recollect it was the case of the Bath Gas; I appeared for the Bath Corporation, petitioning against the Bill. On that occasion I had two other learned counsel with me; it was a very heavy case, indeed, involving a large number of calculations, the cost of production of gas being one of the questions, and it was impossible for me to look at the books that were put in and to examine the witnesses at the same time. I thought it necessary to have those who were to assist me in the opposition of the Bill before the Referees and when the appearance paper was taken up, the Referees said that they could not recognise more than one counsel, but that they could not preclude others from being in the room and offering me assistance, and I must say that in that case it was of great assistance, for although I was obliged to do all the examination myself, they looked at the books and accounts and made the calculations, without which I should have found great difficulty in getting on at all.

254. Do you think the investigation of engineering facts before the Referees has

has been conducted with more brevity and efficiency than it used to be before Committees of the House?—I think it has been conducted perhaps with more efficiency, because it has been gone into at much greater length, and therefore I cannot say with more brevity. I think Committees of late years had got somewhat impatient of engineering details, particularly with regard to estimate. When an engineer got into the box, and began to be cross-examined, and had to give the details of his earthworks, fencing, and masonry, for the purpose of seeing whether his quantities were sufficient and his prices adequate, Committees of late years were rather impatient of that inquiry. In point of fact, in most instances their decision did not turn upon it, and very often they intimated that their decision would not turn upon it, whereas now a much more accurate investigation takes place, perhaps with greater advantage to the public, and, of course, with advantage to petitioners if they can throw out a Bill, or disarm the promoters by getting an adverse report.

255. You are of opinion, I understand you to say, that the engineering evidence upon the average before Referees is longer than it used to be than before Committees?—Not than it used to be, but longer than it has been of late years.

256. Take last year?—Yes; as far as I can see.

257. From your knowledge of the engineering evidence given last Session, should you say there were any cases of engineers whose evidence occupied two days?—There was one case, certainly, before Lord Stanley; that was a special case. I should say the whole group of Lord Stanley's Bill last Session involved very important engineering questions, because the railways proposed went through the heart of London. In the first place they were very large schemes, indeed; and, secondly, of course every inch of ground was looked at with reference to engineering objections. I was in one Bill which certainly occupied a considerable time, and which was rejected on engineering grounds; but that was a very special case, where it was proposed to tunnel under one of the main locks of the London Docks; but I do not think it took longer than it would have taken if it had been before the Referees this Session.

258. You cannot speak to any other cases than those before Lord Stanley's Committee, where the examination of one engineer occupied two days?—Yes, I can; but that was in the House of Lords, and I suppose you would hardly go into that. Last year I was counsel for the trustees of the Bute Docks, and the engineering features of that scheme certainly took a very considerable time before the House of Lords, three or four days; but it is very difficult to separate the time occupied by purely engineering questions.

259. I wish you to understand evidence given by engineers?—Yes; but engineers give evidence as to the general policy, as to the connection of the proposed line with other railways, and as to working traffic, which is not purely engineering evidence, or purely for the Referees, but I should think that the engineering proper did take longer before the House of Lords last year than it did take before the Referees. I was on the opposite side this year. My learned friend Mr. Davison and myself changed sides, and I think we knew our case better; it was all familiar ground, and we knew the vulnerable points better.

260. You were engaged, I believe, in the Scotch case, last Session; a case of a railway running into Glasgow?—I presume you mean a Bill that was ultimately dropped. Yes, I was engaged in that.

261. Are you aware, in that case, there was one engineer under examination for two days and a half?—I recollect that he was under examination for a very long time; in comparing days I think you must rather compare hours, because the Referees sit from 11 to 6, or 7, or 8, whereas the Committees only sit four hours. If you take it hour by hour, I very much doubt whether the matters have not occupied as long before the Referees as before the Committees.

262. You heard the evidence given by Mr. Hassard, and Mr. Adair, that there are only two instances during the whole Session where an engineer has been under examination for more than one day?—I believe that is so; I have no doubt it is so.

263. In your own experience it appears that last Session there were four cases in which an engineer was under examination for more than two days?—I should like to know how many hours the day means.

264. That being so, within your experience, do you not think that there must be other cases in which you have not been engaged, where engineers may have been

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been under examination for a longer period?—Very possibly, indeed, because recollect this must be said, you get an engineer into the box, and he knows the whole of the secrets of the company; it is not merely as regards engineering that you examine him, but you get from him as to finance; how the company was got up. There are 20 things that an engineer is forced very often to confess which you never could get from any of the witnesses, because they withhold the witnesses who know the weak points of the case.

265. There are several subjects which are referred to Referees to investigate; namely, estimate of works, efficiency of works for the object, and the financial condition?—No, I beg your pardon; the financial condition is beyond their jurisdiction.

266. The estimate?—Yes.

267. Those are the chief points to which an engineer speaks?—Yes; but he very often speaks on the general policy of the company; in cross-examination more especially about agreements, previous Parliamentary contests, and a hundred other things which no one but an officer of the company can know.

268. There is still the power of examining an engineer upon those points before the Committee?—Yes; but the promoters have the option of withholding him, though they generally have him in the room to assist.

269. Are you aware whether an engineer is now often called before a Committee of the House to support their case?—I think that an engineer is not very often called, except in one or two cases; for instance, where the landowner complains of the intersection of his land where it is necessary to call the engineer to show that the proposed line was gone through his land in a less objectionable way than he states, or to show that there was no other mode of doing it; he is a very expensive person, and he is obliged to be in attendance, because without him we should very often be at fault in conducting our case. So the expense of his attendance is not saved by the previous trial before the Referees.

270. From what you have stated, it appears that Committees have been relieved from the investigation as to engineering matters?—Yes.

271. So far, the Referees have relieved the Members of the House of Commons of a duty?—Yes.

272. And whatever the amount of investigation that has been removed from the Committees by the Referees, that is a relief to the Members of the House of Commons?—Yes, no doubt it is *pro tanto* a relief. Then I should say it is a loss on the other hand to the suitors in this respect, that they lose two of the most experienced Chairmen that the House has furnished for conducting these inquiries.

273. And if it should turn out that the average number of days occupied by Committees in this House in the investigation of Private Bills is considerably less than in other years, that would also have to be taken into consideration?—No doubt.

274. Mr. *Ingham*.] Do you remember that, in that case you alluded to, of passing under a portion of the London Docks, as many as 14 engineers were examined?—If you will allow me to correct you, my recollection is that 14 engineers were examined for the Bill, and six by the London Docks against it.

275. There were 20 engineers examined on one side, and the other?—Yes.

276. Of course that was a fearful expense; it was a protracted investigation, and was not well known when the question would come on?—So it must have been before the Referees.

277. Do you not think there is much greater dispatch when the investigation is pursued continuously by the same persons than in a Committee, when an interpolated question is put, which gives an opportunity to the witness to repeat the whole of his evidence again?—No doubt the Referees sitting from day to day acquire a familiarity in handling those questions, with which a Committee just brought together cannot be so well acquainted.

Veneris, 9° *die Junii*, 1865.

MEMBERS PRESENT:

Mr. Bonham-Carter.	Mr. Lowe.
Mr. Milner Gibson.	Colonel Wilson Patten.
Mr. Gathorne Hardy.	Mr. Woodd.
Mr. Ingham.	

COLONEL WILSON PATTEN, IN THE CHAIR.

Thomas Phinn, Esq., Q.C., called in; and further Examined.

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Witness.] PERHAPS the Committee will allow me to correct an answer which I gave yesterday, with reference to refreshers. I stated that the refreshers were only 10 guineas a day, and that I had not known an instance to the contrary. My clerk reminds me that in one instance in the course of my practice my clients gave me 20 guineas; that is the only instance which I know of in the whole of my practice.

278. *Chairman.*] In your examination yesterday you stated that taking the number of hours occupied by the Court of Referees, as compared with the time occupied by the Committees, you rather doubted whether very much time had been saved?—I said that I had no materials for ascertaining it.

279. Do you not think that it is a very great advantage to have a court for the examination of Private Bills which is able to sit for the hours that the Referees have sat?—That is really a very mixed question. In the first place it entails more severe work on counsel, and that of course we must not complain of; but I hear all the engineers and the Parliamentary agents, who have other duties which they must perform elsewhere, say that they cannot prepare from day to day if the hours are much longer than they are at present. The hours in the House of Lords are from 11 o'clock till 4, which are as long as can be given consistently with the other business to be done out of Committee; so that the business can be well got through by the persons engaged in it.

280. Is it not a matter of much greater importance to the public that if the business can be done the hours should be lengthened?—The question is whether it can be well done. I think it much better that what business is done should be well done than that there should be a great amount of business indifferently done.

281. Have you heard any complaints that the business before the Court of Referees this Session has not been well done?—Certainly not.

282. Have you not heard that it has been admirably done?—I have heard very divers opinions about it.

283. Are you aware that an attempt has been made in the House of Commons to lengthen the sittings of the Private Bill Committees?—I was under the impression that an attempt had been made to compel them to sit five hours a day, instead of four.

284. Are you aware that that attempt entirely failed?—Yes.

285. And that it was owing to the impossibility of Members giving continuous attention to the private business as well as to measures of public importance?—Yes; because it was impossible that men who sat up till 2 o'clock in the morning could be here practically at 11.

286. Therefore, do you not think that it would be an advantage if you could obtain

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obtain a court of equal weight, which would sit for a longer period than that which is now occupied by Private Bill Committees?—Yes; if you could get a court of equal weight; but that is the difficulty. I do not think that you could get a court of equal weight, in the eyes of the public, to the present Committees of the House of Commons. I think that they reflect so completely the varying phases of public opinion that, although exception may be taken to some of their decisions, they have given us the most admirable system of railways in the world; and I believe that, on the whole, under very great difficulties, they have done substantial justice; that is my experience. I daresay that I, like others, when they have decided against me, have cavilled at their decisions; but, on the whole, I may undertake to say (and I think I state the opinion of the great body of my brethren) that the decisions of the Committees have given satisfaction to the public.

287. You would yourself, as I understand, suggest (I think that you did once suggest) that the sittings of the Committee on Private Bills should be prolonged to a certain extent?—I suggested that certainly, from the analogy of the courts of law, but persons who have much more practical knowledge of what goes on out of the Committee, namely, the agents and the witnesses, who know what goes on, all tell me that four hours is as much as can advantageously be devoted to the business. I should add, that I think that in the Session before last a Committee, of which Mr. Adair was Chairman, a Yorkshire Group sat at 11, and we found that the business did not practically commence till a quarter or 20 minutes past 11, and I do not think that on the whole we did much more business than if we had been only four hours at it.

288. In your experience is it not an objection, which is raised against the present Private Bill Committee, that very often they do not get to work till a quarter past 12 o'clock, and that they very often break up before four?—I do not mean to say that there are not exceptional instances sometimes where that is the case. Sometimes a Member is not in his place at the moment, or I am sorry to say, sometimes Committees have to extend to us the courtesy of waiting for five or ten minutes, but on the whole I think that the business is done with punctuality, and, I must say, with very much improved dispatch, within the last three or four Sessions. I think that the main features of the cases have been dealt with, and that extraneous matters, from the growing experience of the Chairman and the desire of the bar to meet the wishes of Parliament, have been very much excluded.

289. Are you aware of the number of days that each of the Chairmen has sat in order to get through the business?—I saw a Return last year, but I do not think that I have seen any this year.

290. If I tell you that some of them, for that purpose, had to sit 56 and 60 days, do you think that that is a duty which the House has a right to call upon Members to perform?—I think that it is an enormous tax upon Members, but considering the high position which a gentleman has, who is fortunate enough to be a Member of this assembly, he must discharge those duties.

291. But is that one of his duties?—It is a duty cast upon him by long usage.

292. Are you not aware that the House could not compel one of its Members to sit that length of time unless he chose?—I am not aware of that. I think that if a Member of the House of Commons is called upon to perform a duty he must discharge it.

293. Then you are under the impression that the House could compel a Member to sit for 56 days?—Yes.

294. Mr. *Hardy.*] Do not you think that we should have a *Parliamentum indoctum* if we treated lawyers in that way?—I think it very possible; but when I had the honour of a seat in the House, I took my share in election Committees.

295. *Chairman.*] Will you give your opinion to the Committee as to the best mode of conducting the increasing private business before the Committees?—My first suggestion would be to reduce the number of the Committee to three. I think that three are a much better tribunal than four. You would then have more Members available for the business of the House; and I would, secondly, look upon the Chairman rather in the nature of a judge, and upon the Members of the Committee in the nature of jurymen; and if the House chose to have paid Chairmen,

Chairmen, I think that it would be a very good thing. I would change the two other Members of the Committee, perhaps calling upon them to sit for a week until the Bill before them was terminated, and would then recruit them with two fresh Members. I think that that would be a very good plan, because the present system is very hard; one set of Members get struck upon a group, like Lord Stanley's Committee last year, which lasted, I think, for 11 weeks, and another Committee performs its period of service by sitting perhaps for three days; the Bills are settled, or oppositions are withdrawn, or a short end is put to the Bills. One set of gentlemen have discharged their duty to the House by 11 weeks' continuous labour, and another set by, perhaps, three days' labour. I also think that it would be a very good thing if provision were made that, at the time when a Bill is deposited, and the estimates are deposited, certain requirements of the House were made which would prevent much petitioning and much inquiry. In the first place, I do not see why the estimates should not be framed under certain heads. I ought to say that I do not attribute much weight to the estimate, but there is a circumstance which was not adverted to yesterday, which I wish to advert to, namely, that the estimate governs the amount of deposit, and we know the extreme difficulty which there is in getting deposits in the present day, and the very high rate which has to be paid for the loan of money for deposits, and the engineers are tempted to contract their estimate with a view to reduce the amount borrowed for the deposit. But if you are going on with these investigations into the estimates, taking the case of a Railway Bill with the old practice, and with the present practice before the Referees, you have, before you can attack the engineer's estimate, to separate it under different heads. For instance, if it is a railway, to ascertain how much the engineer takes for permanent way, how much for fencing, what is the cubical amount of his earthwork, what are the prices attributed to the work, and various things of that sort; and, having sifted the estimate throughout, you try to pounce on the weak point and to upset his estimate upon it. Now surely a schedule might be prepared with reference to the line, which, when the estimate was deposited, would show what was attributed to these different heads of estimate, and then, if anybody wished to attack the estimate, he could attack the weak point, instead of taking the Committee or the Referees, who had to inquire into the estimate, through the whole of the estimate, on purpose to find out any particular deficiency which might exist. I think that that would not be a bad plan. Then, to repeat a suggestion which was made to me by a very eminent friend of mine the other day, I think that it would be a very good thing if railways were divided, as it were, under some classification; for instance, it is almost absurd to require the same engineering for a mineral line as for a great through passenger line. At present the Referees have to report whether the engineering details are satisfactory, and whether the works are sufficient for the purpose; but I do not know that they have any power to inquire what the nature of the country is, whether the country is a mountainous country or a flat country; whether the country admits of better or worse gradients; whether the approaches to the towns admit of better or worse curves, and what the nature of the traffic expected on the railway is. There is no absolute good or bad engineering; it is all relative to the purposes to which a railway is to be applied, and I think that you might very easily call upon an engineer, when he deposits his estimate, to state for what purposes his line is intended, what is the sharpest curve and what is the steepest gradient, and then let it be attacked or passed by, as the petitioner thinks fit. There is another very great defect in your present system, which is this: if a landowner or opponent wishes to set up an alternative line, there is no power in the Referees to inquire into the engineering of the alternative line; they can only inquire into the engineering of the Bill deposited, and, therefore, Committees this Session have been, I think, a little inclined to give no weight to the suggestion of alternative lines, because they are not enabled themselves to inquire into the engineering of the proposed line, although they have the power to inquire into the engineering of the alternative line, and thus the same party does not make the comparison, inasmuch as the Referees inquire into the engineering of the proposed line and the Committee inquire into the engineering of the suggested alternative line.

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296. Then, do you believe that the Committees this Session have regarded it as

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as the duty of the promoters of a line to give the best line, and that if they have failed to prove that the proposed line is the best, they have been thrown over?—Yes; I think that they have done that, but I think that Committees have been rather inclined not to inquire much into alternative lines suggested.

297. Mr. *Woodd.*] By an alternative line do you mean a line which is presented as a scheme not in existence, but which might be produced instead of the other?—Yes, one which has failed on Standing Orders or anything of that sort. A landowner says, "You might make a line beyond your limits of deviation" (I am not now alluding to what the promoters might do within their limits of deviation); "you cut through my park, you might have gone outside the rails of my park with a line which would be outside your limits of deviation; yours is not the best line, because I can point out a much better line."

298. To refer to the case of the proposed tunnel under the Severn as an alternative line, in opposition to the Severn Bridge, such a case as that is hardly a case which you would expect a committee to go into, or to allow to be put at present?—I could advert to a case of last year where the Committee did allow it, and I think that the Honourable Member for South Shields will recollect it, namely, the case where it was proposed to tunnel under the London Docks. We said, "You must not tunnel under this lock of ours, but if you will go to the main dock and put a cofferdam in, we will not object to it, and you will get a much better line." Of course I cannot dive into the secrets or the grounds of the rejection of a Bill, but the Bill was last year rejected, and, I believe, that this year the promoters of that line have adopted that very alternative line which we suggested, and, by an agreement with the Dock Company, have passed their Bill as an unopposed Bill.

299. *Chairman.*] Have you any other suggestion to make?—I was speaking about estimates, and I must say that I think that this year the strict inquiry into estimates has been productive, in some cases, of hardship, and that the public have not got the best line which they otherwise would have got. Take, for instance, a case in which I myself was concerned, and one of the first cases of the Session. There was a line proposed from Blisworth on the London and North Western line by Northampton to Bedford. At the same time a rival line was proposed in the same direction; I was for the line which we will call Line A. We were objected to on engineering details before the Referees. Our opponents were not very successful in that respect; they then, most unfortunately, turned round, and attacked our estimate, and we were not very well prepared, as far as I know (for I did not appear before the Referees), and they pitched upon the prices of some land which we were taking in the vicinity of Northampton, which, of course, had a sort of fanciful price, as all town land would have, and the Referees thought that our estimate was not sufficient. Their report was brought before myself and my colleagues in consultation, and a suggestion was made that, inasmuch as part of our line was a mere duplication of the existing line of the London and North Western Company from Blisworth to Northampton, that portion of our line should be dropped, and that then the estimate for the other part of the line would be amply sufficient to cover it; the Bill went before the Committee, and the Committee said, "No; the estimate has been reported as insufficient: the Referees have not said how much it is insufficient; how can we tell that, even if you dropped your four, or five, or six miles of line where you run parallel with the London and North Western line, your estimate would then be sufficient." Then, we asked them to refer it back to the Referees, but they refused to refer it back; and I think that I am not speaking without book when I say that the consequence of that was that the rival line to us passed, which was a line which certainly was not favoured by the landowners nearly so much as our line was; and it may admit of doubt whether it was as good a line for the country. That case was brought before the House. The House thought that they ought not to interfere with the discretion either of the Committee or of the Referees, and the consequence has been that that very point which was adverted to yesterday, of the Referees not finding by how much the estimate was insufficient, was fatal to that Bill. Of course, this is a new system established this year. I have no doubt, as was said by the two Honourable Members who were examined yesterday, that there will be much more caution exhibited in framing

framing estimates in another year, and perhaps on engineering points; but I really think that, in the case of some lines, the course taken upon the question of estimate has operated rather harshly. In another case, that of the Bute Docks, in which I was the counsel impeaching the estimate, and where we succeeded in showing that the estimate was insufficient, the Chairman of the Committee, whilst giving effect to the objection that the Bill could not proceed, in consequence of the unfavourable report of the Referees, expressed his regret that he should be constrained to dismiss a Bill which, apparently, would be productive of public benefit.

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300. Mr. *Milner Gibson.*] What is the construction which you put upon Standing Order No. 91, which states that the Referees shall report their opinions, together with the facts upon which they are founded; do not you think that it was intended by that Standing Order, that a distinction should be preserved between opinions and facts?—I should say that this Standing Order is very ambiguous; in the first place, the word "opinion," to which the Right Honourable Gentleman refers, seems to me to be used as identical with "report." "The Referees shall make their report upon the same to the House, stating the facts upon which their opinion is founded;" it appears to me that "opinion" there ought to be "report," "stating the facts upon which such report is founded."

301. It is not so?—It is not so; but I cannot draw any distinction, taking the whole context, between "opinion" and "report."

302. Supposing that it had been held, in the case to which you have referred, that the opinion of the Referees was not to be deemed conclusive, but that the facts which they gave as the groundwork of their opinion were to be held to have been proved, and that the opinion might still be questioned, the result which you have mentioned would not have arisen, but the Committee would have felt at liberty perhaps to form a different opinion upon the facts from that which had been formed by the Referees?—Perhaps the case of the Bute Docks would illustrate it better than any case to which I could refer. The Referees found the estimate insufficient; it was their opinion that the estimate was insufficient; the promoters of the Bill said, "Inasmuch as the funds for the construction of these works are not to be found, or raised, in the ordinary way of a company's capital, but are to come from the private resources of Lord Bute, it does not matter whether the estimate is insufficient or not; let us go on with the work." There was a lawyer in the chair of the Committee, Mr. Longfield; I had the honour of arguing the matter against the Bill, and I argued that the House meant that the report of the Referees should be final, and that the promoters were not at liberty, notwithstanding the phraseology of the 91st Standing Order, to go on. I confess that when I came to look, as I have done in many cases, at what the effect of the report of the Referees was to be, it seemed that the House has entirely omitted any decision as to what the effect of the report is to be; the referees are to report, but there is nothing to say that if the report is adverse the Bill is not to go on. I tried to press that point most strongly, in the first case, of the East and West Junction Line; perhaps I did not make myself sufficiently clear.

303. Mr. *Woodd.*] If the report of the Referees is not to be conclusive, does not it open the whole question as to the Referees?—I think not; I think you may say that the Referees have reported that the engineering is defective, inasmuch as the curves are too sharp or the gradients are too steep; but then the nature of the country requires those sharp curves and steep gradients; the line to be made is a mineral line and not a passenger line. That, I think, was the construction which most people put upon the intention of the House. That the Referees were to find the facts, and I think that the view of the Honourable Gentleman in the chair, as far as I have looked at the debate, seems to have been that the Referees were to find those facts, and that the Committee were to apply those facts to the other circumstances of the case. But that has not been the course hitherto pursued. The course hitherto pursued has been, that if the Referees find adversely upon these points, that finding is conclusive upon the fate of the Bill.

304. *Chairman.*] With regard to the objection which you have raised as to the Referees not having the power to state their opinion with reference to the

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nature of the country, and that they are obliged to look to the railway itself without any regard to the country, are you aware that they have so investigated and so reported?—They have, in one or two cases, I think.

305. I have one case before me: "It would be desirable, if possible, to avoid effecting a junction with a railway so near to such long and steep inclines as those upon the Brecon and Merthyr Railway; but, from the nature of the country, if a junction is to be effected, it cannot be made without some such defect; and, as the control of the trains and signals will be vested in the Brecon and Merthyr Railway Company, the Referees are of opinion that there are not any engineering objections to the construction of the proposed junctions?"—If I may venture to say so, I think that the Referees, to do justice, have travelled a little out of the powers confided to them by the House.

306. Mr. *Milner Gibson.*] Do you think that it would be expedient that the opinion of the Referees should be open to question before the Select Committee, though no evidence should be taken upon the facts on which that opinion has been founded?—No; if you are to retain the Referees (upon which I at present offer no opinion) it is of no use having the double expense, to find first the facts, and then the application of the facts to the peculiar circumstances of the case. I think that you must make the report of the Referees conclusive upon the heads into which they inquire.

307. You are of opinion that their report, so far as it is confined to the matters confided to them, should be held as conclusive, whether it is an opinion or whether it is a fact?—I think so. For instance, supposing they say, "This dock cannot be constructed for the money," I think that that puts all parties at rest, and it stifles the Bill for a year. It is much better that it should be so than that the parties should have a long discussion before the Committee, and that then the same result should be ultimately arrived at. I also think that it would be productive of great mischief in this way, that there would be no uniformity of decision; one set of Committees would decide that the Referees' reports were final, and another set of Committees would decide that they would pay very little attention to them.

308. Would it not be desirable that this ambiguity in language should be removed, and that it should be made clear?—Certainly, if you retain the tribunal; but I hope that I am not to be understood as being favourable to continuing the tribunal upon engineering points. As to *locus standi*, I have expressed an opinion; but dividing the inquiry between two tribunals seems to me to be antagonistic to the first principles of jurisprudence, and I have always thought so.

309. In your practice this Session, are you aware of any points which have been determined by the Referees, and afterwards reopened before the Select Committee upon the Bill?—I cannot say "determined." I recollect one Bill in which the parties had not taken the objections before the Referees; I was for the opponents of the Bill, and the Chairman of the Committee which was trying the merits of the Bill, allowed us to go into the whole question, and we went into the whole question. That was a case of water supply, I think, to the town of Runcorn. I think that my learned friend, Mr. Davison, who was my opponent, will confirm what I have said, that we went into the whole question, and we very nearly succeeded in throwing out the Bill upon a purely engineering question; it was the question of the source of supply. We said that the source of supply which the promoters had intended for the town was wrong, inasmuch as it was on one side of a fault, and that the water would, I think, be impregnated by salt. The promoters, at the last moment, discovered that their limits of deviation included the other side of the fault, and that they could place a well at a point where they could avoid this saline impregnation. I am not sure that I am stating it quite accurately, because I was not in the room at the time; but my learned friend, Mr. Davison, who argued the case against the objection will, I think, confirm the accuracy of what I state. (Mr. *Davison.*) I think that it was at the very last moment. Our engineer, Mr. Hawksley, was not asked upon the point; it was only when the last day came, that this was sprung upon us by Mr. Bateman, and I of course asked the Committee to allow me to recall Mr. Hawksley, and it was disposed of.

310. *Chairman.*]

310. *Chairman.*] There were an upper level and a lower level, and this was brought as a third. (Mr. *Davison.*) Yes, they sprang this mine upon us.

311. Mr. *Milner Gibson* (to Mr. *Phinn*).] Under the Standing Orders, have you found it difficult to determine whether the parties claiming to be heard against a Bill should go before the Referees, or should reserve their objections for the Committee?—No, for this reason, that when the Standing Order was introduced, and the rule with regard to endorsing petitions was made, I believe that *ex abundanti cautelâ* agents endorsed every petition, "engineering details, sufficiency of estimates, and efficiency of works;" and the cases were brought to us when the parties had determined to fight. I am only speaking of my own practice before the Referees, which was limited very much to the period before Easter, for after Easter I found it impossible to attend them, except in one or two cases. Once or twice before the Referees I had to raise the question whether the matter was for the Committee or for the Referees.

312. Are the Standing Orders sufficiently clear as to what are the points which should be gone into before the Referees, and what are those which should not be gone into there, but should be reserved for the Committee?—If the Counsel before the Referees does not want the case to be gone into before the Referees, he says, "That is not for you, but for the Committee;" whereas the Counsel who wants it to be gone into, says, "That is for you, and not for the Committee," and, of course, there has been a good deal of special pleading and technical discussion upon those questions.

313. *Chairman.*] I believe that they were discussed very much in the outset of the Court of Referees, but that in the latter portion of the Session those discussions have not taken place?—The Referees have made up their minds, and have determined "that is not for us;" and whether they have determined it rightly or wrongly, they have made that rule, and I dare say that it works very well. I recollect one case where I had very considerable difficulty in ascertaining what was for the Referees and what was for the Committee; it was in the Bute Dock case. There the promoters proposed to occupy 112 acres of land for a dock, and we, on the part of the Penarth Company, objected to it on the ground that it would silt up the accesses to the Penarth Docks. That was clearly an engineering question; but there was another question, namely, whether the dock would not be an obstruction to the navigation of the channel, and I contended before the Referees that it was a question for the Committee whether the navigation ought to yield to the dock, or whether the dock ought to yield to the navigation. Somehow or other during the discussion we went very largely into the matter, and the Referees reported upon it; I advised my clients to raise the question again before the Committee, and we had the witnesses for the purpose.

314. What was the result?—The result was that the case went off upon estimates, so that we never came to the point.

315. Have you any other suggestion to make, supposing that the Courts of Referees are continued?—I think that there is one point which was hinted at by the Honourable Member for Winchester yesterday; the deposit, where it is *bonâ fide* and in conformity with the rules of the House, is so akin to estimate, the amount of the deposit being governed by the estimate, that I think the *bona fides* of the deposit would be well left to the Referees.

316. Mr. *Woodd.*] You would rather leave it to the Referees than to the officers of the House; the examiners upon Standing Orders?—Yes; because the examiners, as I understand it, cannot inquire into the *bona fides* of the deposit; they can only see that the right sum has been deposited in the right securities. Then a further question has been raised upon a late decision of the House, on the report of Mr. Scourfield's Committee, upon deposits last year, whether it is consistent with the rule of the House that the promoters should have a third party behind them, who, lending the deposit, has the control over the Bill. A Bill in which I was engaged this year was rejected on the ground that the deposit, though nominally in the names of the promoters, as required by the Standing Orders, was very much controlled by other and foreign influences.

317. Do you not think that it might be better in all cases to require the circumstances connected with the deposit to be proved affirmatively rather than to wait for objections to be raised against them?—I think so. That is a matter entirely in the hands of the Committee; I think that it is entirely in the hands

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of the Chairman now, if the point is raised in the petition, as it almost always is, to inquire, "Where did you get your money; let us hear the history of this concern before we go into it;" but Chairmen take very different views of these deposits as I think I may say without fear of contradiction.

318. Do you not think that in every case it ought to be proved, without its being left to the Chairman, and that if it was a matter to be inquired into by the officers of the House, it would have to be proved in every case as an affirmative proposition?—Yes.

319. Mr. *Ingham.*] I do not exactly see what is considered *bonâ fide*; you ascertain that an actual sum of money has been paid in upon the credit of the promoters of the Bill?—Yes; but the view which Committees have taken is, that inasmuch as the Bill may be a *damnosa hæreditas*, if I may say so, in the hands of the promoters, and after the whole inquiry has been gone through, both before the Lords and the Commons, a third party, who has lent the deposit, may say, "I do not think that you will get your money to make this Railway, and therefore I insist upon your withdrawing the Bill and not taking the Royal Assent to it," the Committees have looked at that as a sort of *mala fides* towards Parliament; but I think that if Parliament impounded the deposit, at once and for all, it would be a very good thing, taking care as a security, that if the Bill passed both Houses it should receive the Royal Assent, putting it in the hands of their officers, or something of that kind. I think that the difficulty would be obviated, because, in the present state of this country, it is notorious that you cannot get railways made without contractors and engineers, and persons of that sort, advancing the money in the first instance; landowners will not do it, and people who have large balances at their disposal have other means for the employment of their money.

320. Mr. *Woodd.*] Still, upon the whole, you think that that inquiry should rather be left to the Committee, or the Referees, than to the officers of the House?—Yes.

321. *Chairman.*] Do you approve of the system which has been adopted by the Court of Referees, of throwing the *onus probandi* in the first instance on the objectors?—I think that in the case of Railway Bills it is unobjectionable, except with regard to estimate; for this reason, the plans and sections disclose the engineering features of the scheme, and the petitioner knows what he is going to object to; but with regard to the estimate, the estimate is a lump sum, and the man who has framed that estimate must know what sum he has attributed to each item of the estimate, and the inquiry is almost an idle one; it is necessarily very long, and consumes a great deal of time. We put an engineer into the box to say, "I find that there are so many cubic yards of earthwork, so much fencing, so much ballast, slopes at such an inclination, and so on; and I assume the quantities at so and so." The other engineer may come and say, "I never assumed any such quantities." Then as to prices; one engineer will take so much per foot run for masonry: another says, "I can get it done for half the money." I think that if the estimate is impeached, it is much better that the engineer should get in the box with a sort of schedule showing the quantities and prices, which we always used to get upon the second day before Committee. I suggest that that should be deposited in the first instance with the estimate. I should say that the present inquiry into estimate is quite a creature of the Referees; for in all my practice before Committees of this House for the last seven years preceding this year, I only know of one case in which a Bill was rejected upon the ground of estimate, and there it was pretty clearly understood that it was adverse to the views of the Chairman. There, again, my learned friend, Mr. Davison, was opposed to me; that was in the case of a railway running through North Devon, which involved an inquiry into the expediency of pushing the narrow gauge through that country, but the Bill was ultimately rejected, as we understood, on the ground of estimate. That is the only case which I have known for the last seven years. This year two or three Bills have been rejected upon that ground.

322. I think you have stated that, seeing the necessity of a strict inquiry as to deposit, there is also a necessity for the estimate to be gone into?—Yes, as the estimate governs the deposit; but I do not know why the estimate should govern the deposit. I think that Parliament should insist upon a certain sum, according to the length of the line, or something of that kind. By the present course you tempt the engineer to contract his estimate, because the deposit is always lodged

lodged at the last minute; and, in the case, of speculative lines, you tempt the engineer to contract his estimate, and to run the gauntlet of the Referees for the sake of saving his principals a few thousand pounds in the deposit.

323. Mr. *Milner Gibson.*] Can you tell us what is supposed to be what one may call the *rationale* of the inquiry into estimate?—It arose in this way, that originally Parliament required a subscription contract. You wanted to see the degree of favour with which the line was received in the neighbourhood, and you saw how far local parties had subscribed to carry out the design, and you saw how much money the neighbourhood had furnished. That is all obsolete, the neighbourhood furnishes nothing.

324. You have now no subscription contract?—Just so.

325. Had it not some relation to the old inquiry, whether the line would pay, taking into consideration the probable traffic?—Yes; and the substitution of the deposit had relation to a legal question which was raised in the Court of Queen's Bench, and afterwards in the Court of Exchequer Chamber. The Great Western Railway Company, I think, got power to construct a railway from Radstock to Newton St. Loe. They did not construct it, and were allowing their powers to lapse. The proprietors in the neighbourhood applied for a *mandamus* to compel them to construct the railway, and the Court of Queen's Bench held that they were bound to construct it. The Court of Exchequer Chamber held that there was no legal obligation upon them to construct the railway. I rather think that there was an investigation by Parliament upon it, and Parliament said, "Though there is no legal obligation, we will take security that the promoters of a line shall construct it;" and there is now a penalty of 50 *l.* a day in the case of established companies.

326. But the inquiry into traffic is very much given up?—That is practically obsolete.

327. In fact, the Committees do not now inquire whether the proposed scheme is an improvident one, or whether it will pay; but they leave that to the undertakers, supposing that they will be the best judges upon the point?—I cannot say that; Committees give no reasons for their decisions. One set of topics influences one Committee, and another set of topics influences another. I think, for instance, that if the Committee saw that a railway, parallel to an existing one, was going to be carried through a poor country, and that there was no traffic, and that a large sum of money must be paid for the new line, they would say that it was not worth while that such a sum should be expended upon it. I think that that would be an argument which would be fairly addressed to them, and I think that sometimes it would fairly influence them.

328. With the view of preventing people judging for themselves as to the most profitable way of spending their own money?—But taking compulsory powers over other people's lands for an inadequate object.

329. So far as this point goes, it only leads to the taking care of their own resources, and that people should not embark in an improvident scheme?—Yes; but the scheme would be opposed by somebody, either by the competing railway company, or by a landowner, or, more properly speaking, in the name of a landowner. Then the Committee would have evidence brought before them by persons who would say, "We have an interest in this railway not being constructed, and we show that it is an improper and futile expenditure." They would either say, "You must not take our land compulsorily," or "You must not rob us of our traffic;" and I think that the Committee would very probably look at that.

330. Supposing that landowners had an objection to sell their land, and supposing that a new line was proposed for the public, would you have it rejected because persons thought it an improvident scheme, and that they were better judges of how other people should spend their money than they were themselves?—Certainly not; I think that the great defect of the Bill of last year, which enabled the Board of Trade, as it were, to pass Railway Bills, was the power which it gave to railway companies, when all the landowners were assenting, to drive parties to this House. That opens a very great question.

331. I think that estimate was a part of the system which prevailed formerly, more than now, as to whether a scheme would pay; all that system is now very much given up, and therefore perhaps the inquiry into estimate, with the great accuracy with which it is now made, might also be given up?—Almost

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the whole inquiry now has assumed a totally different form from what it used to do; it very often is very much like a Chancery suit, because it turns upon agreements and Acts of Parliament, and certain relations between the companies which constitute a bar to another company proposing a line; and when we speak of this business as being so simple and as being so easily done, it was so in the first instance when there were no railways; and if it was desired to have a railway from London to Bath, it was a very easy thing; you called a number of men to prove the enormous traffic, and you called the engineers to prove that the line could be made; but it is now complicated with the most intricate relations which can be conceived.

332. Mr. *Woodd.*] Practically speaking, Committees find that the line is useful to the public, and leave the question of profit entirely to the promoters?—Yes, entirely.

333. Mr. *Milner Gibson.*] It is difficult to conceive a new road which is not of use to the public?—That certainly is always the line of argument which I take when I am on one side.

334. Mr. *Lowe.*] I understand you to say, that you think that the constitution of the Referees has increased the strictness of inquiry into the engineering?—Yes, very much.

335. Do you think that an advantage?—I think not; because very few lines have been rejected on engineering, and I look at the result; we have higher speeds in this country than in any country in the world, and we have fewer accidents in proportion, and rarely any from defects of original construction.

336. Do you think that practical injustice would result if the Referees refused to hear the Bill upon engineering?—I think that great evils would result in this way, that when you have to cross other railways, or to effect junctions with other railways, I think that those companies ought to be heard to protect their own traffic and the safety of the transport of their passengers; because they are responsible in very heavy damages to the public, when Parliament has once sanctioned the construction of the line, if an accident happens.

337. With that exception, do you see any particular advantage in the inquiry?—I think that the Board of Trade, from their experience, would be able pretty well to tell whether a railway as laid out would be dangerous or not; I think that you might in many cases fix the maximum of gradient, and the minimum radius of curve; in fact, Parliament has done so in some instances in the Railway Clauses Act.

338. Then, I gather from you, that a great portion of the inquiry is superfluous?—Yes; putting aside a good deal of the engineering. The engineering of the line is very rarely gone into; it is generally a question of junction or curve.

339. You are very much against the double inquiry?—Yes.

340. Which do you think the best court of the two, the Referees or an average Committee of the House?—The Referees have never had to deal with questions of public policy, and therefore we have no experience of them; I cannot compare the two. The Referees on their own ground, I think, are better perhaps; for this reason, that they have had to deal with a limited number of subjects, and have gained a great deal of experience in dealing with them.

341. *Chairman.*] Would not that be the case if they had to deal with questions of policy also?—No; because the railway policy of this country is a varying quantity and not a fixed one; it varies with the public mind, and I think that that public mind ought to be reflected in this House. At one time you were all in favour of protection against competition, and now I think that the public mind is disposed to put all that on one side. The President of the Board of Trade has said that every railway is a good, and I think that the Committees of the House, this Session particularly, have very fairly reflected that feeling.

342. Mr. *Lowe.*] Do you see any advantage in the deposit?—I think that there ought to be some security. I do not think that the deposit *per se* is a good thing.

343. You think that there should be security for what?—Security that if the railway is granted it shall be made. You have no right to tie up a landowner's property. For instance, take the railways through London; there have been railways passing through London which have affected millions of property; the sale of houses has been impeded by those powers. You cannot sell your house because the person who was to buy it says, "Well, but the railway may take it." It is very hard that a proprietor should be tied up, and that there should

should be no security for the parties, either going on or giving notice of their intention to drop their Bill.

344. Is not it the real truth, that the question whether a railway will be made or not, is seldom decided until after the Bill has passed through Parliament, and when it is seen whether the public will take the shares or not?—Yes. The fact is, that there is no railway which has ever been granted which has not been made, with one or two exceptions, or where the promoters have not come to Parliament for power to abandon the scheme. I think that there was a discussion in the House a little time ago upon the Sussex and Kent Junction Line, and some satisfactory explanation, I believe, was given to the House. I ought to make an exception with reference to the year 1847, when the subscription contracts were in force; when that panic came a good many railways were dropped.

345. Does not it practically result in the deposit being no security at all?—Yes, because the parties can withdraw their Bill before the third reading.

346. Is not the real security the power of getting out the shares?—Yes.

347. *Chairman.*] Will that be so under the new order of things?—I think that it is best to enact simply that the promoters, having got the line, should be liable by legal proceedings to make it.

348. Upon the question of deposit, now that the deposit will be liable for any costs which may be awarded under the Costs Bill, do you not think that the deposit will have a more *bonâ fide* character than it has hitherto had?—I think it will. Of course, I express no opinion on that legislation. You have a hold on the deposit now which you had not before.

349. Mr. *Woodd.*] With regard to the deposit, after the Bill has obtained the Royal Assent, it is security for the line being made?—Yes.

350. *Chairman.*] Up to the present Session, Parliament has had no hold whatever on the deposit which could prevent the parties from withdrawing it by abandoning their Bill?—No.

351. But now, under the New Act, the promoters cannot withdraw their deposit until they have satisfied every cost which may be brought against them?—Just so.

352. That places the deposit in a very different position from that in which it was before?—Yes; I may say that we have rather diverged from the question which you asked me, namely, whether I approve of throwing the onus on the petitioners. I have expressed a qualified approval of it with reference to railways, but with regard to Water and Gas Bills I think you will see, in a moment, that the case is different. I may mention that I had to argue a gas question before the Referees, and I had the opportunity of arguing that point, and trying to get the Referees to alter that practice with reference to Gas Bills. The Standing Order 90, says, "In the case of Gas Bills, the quality of the gas, the existing supply and its price, the amount of pressure, the cost of production, and the modes of testing the purity and illuminating power of the gas." All those matters are in the absolute knowledge of the promoters of the Bill, and some of nobody else, and in the very case which I have mentioned, namely, the case of the Bath gas, the corporation of Bath opposed the scheme for giving extended powers, on the ground that the promoters ought to reduce the price, and to enhance the quality of their gas. We had no means of proving the exact quality, we could prove that it was not so good as we wished. The existing supply, and its price, of course we could prove, but the amount of pressure the Gas Company alone knew, and the cost of production they alone knew. However, the Referees adhered to their views, and the consequence was that we had to call as our witness the engineer to the Gas Company, which, I think, is a position in which the petitioners ought not to be placed. Then with regard to the case of a Waterworks' Bill, the promoters must know the proposed source of supply, and the quality of the water, and the provision as to storage reservoirs much better than the opponents, and of course the opponents who are generally in these cases public bodies, anxious for the well-being of the district confided to their care, do not oppose unless they have reason to suspect that the provision is not such as they would wish to be made, but they have to go to enormous expense to ascertain what the promoters could tell them in five minutes.

353. You would apply the same rules to Water Bills as you would to Gas Bills?—Certainly.

354. Mr. *Ingham.*] In answer to a question, I think you have said that you object to an inquiry partly conducted by two tribunals?—Yes.

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355. But is it quite the case, that you have the inquiry partly conducted by two tribunals, when you entirely sever the inquiry. One inquiry has to be prosecuted as to the estimate and engineering, and the other as to the legislative grounds. The question is whether, all those things being assumed, there ought to be compulsory powers. How does it differ from what takes place now before the Examiner. It may be said that that is an inquiry before two tribunals. The inquiry before the Referees is on a par with the inquiry before the Examiner. Certain matters have to be ascertained before the Bill is passed, and it is pursuing an analogous inquiry. Distinct matters may be ascertained before this tribunal, and still the entire judgment, as to whether or not the Bill should pass, is left to the Committee on the Bill?—One thing is an absolute thing, whether A. has complied with the Standing Orders, which prescribe certain formalities and certain precautions for the protection of the public, is a fact which is capable of being answered, "Yea" or "Nay;" and even in that case the Examiners have a superior tribunal, namely, the Committee on Standing Orders, who may say, "Looking at the circumstances of this Bill, we will advise the House to dispense with the Standing Orders," or "not to dispense with them." But here you go on to questions which are essential elements of the inquiry itself. For instance, in the case of the Bute Docks, I dare say that if we had found that the estimate was 30,000 *l.*, or 40,000 *l.*, or 100,000 *l.* insufficient; if it had been before the Committee, the Committee would have said, "This is a great public work; Lord Bute has enormous resources; we do not care whether the estimate is 50,000 *l.* or 100,000 *l.* deficient; we know that if he begins this dock he will finish it, and therefore we shall overlook that circumstance in consideration of the great public advantages of the work." In the same way as to engineering defects, a junction is pointed out as a bad one (I had precisely that case), within the limits of deviation that junction could be made a good one. Surely the tribunal which determines that the junction is a bad one, ought also to have the power of saying, "If a good one can be made, and if you undertake to make it, and put a clause in the Bill to make that junction, we shall be satisfied." I think that one of the Referees, the Honourable Member for Waterford, yesterday said, "We have no power to insist upon a clause being inserted in the Bill, and therefore we cannot remedy those defects." Therefore, I must say that the separation of the facts, which are of the essence of the legislative measure, and withdrawing them from the consideration of the Committee who have to inquire whether the measure is to pass or not, is a vicious principle to introduce into our jurisprudence.

356. Mr. *Milner Gibson.*] Still one could conceive that the ground might be cleared by a previous investigation, such as that alluded to by Mr. Ingham, so that the Committee could approach at once the policy of the measure without being delayed by these preliminary investigations?—I think that that would be extending the powers of the Examiners. The first thing which you would say is, "Here is a case of a mile and a half of gradient of 1 in 50, now how can you justify that," or something of that sort. The Committee themselves would do it; it is very analagous to what the Board of Trade does. The Board of Trade now does it upon the question of navigation. When the counsel is opening the case, he thinks it his duty to have the Report of the Board of Trade before him, and he knows very well that before he has gone very far, it will be said to him by the Committee, "How do you get over this Report of the Board of Trade?"

357. There is nothing conclusive in that report; the Committee may think the public advantage so great as to counterbalance the defect pointed out by the Board of Trade?—Yes; but the report of the Board of Trade may be, that the scheme will be injurious to vessels of such a tonnage.

358. But still the scheme may be of such public utility that you may be prepared to pay that price for it?—No doubt.

359. Supposing that an underground railway interferes with the main drainage system of the Metropolitan Board of Works, but the Metropolitan Board of Works says that if clauses are introduced into the Railway Bill for certain modifications of the plan the objection will be removed; how is that to be dealt with by the Referees?—It must be a matter of agreement.

360. Supposing that the railway company go on with their scheme as proposed, it is a question upon modifications as to engineering detail?—I suppose that it is because if the work interfered with another work the Referees, I think, would

would hold that it was engineering detail; for instance, if it went through the main drainage so that all the drainage of London would be intercepted.

361. Is the bare opinion that the scheme, as proposed, is defective in engineering details, because it interferes with the metropolitan drainage works, to be fatal to the scheme?—I think that that has been the practice hitherto; but I have never thought that that is the true interpretation of the Standing Order.

362. If modifications were capable of being introduced into the Bill to meet the views of the Metropolitan Board of Works, would it not be much better that they should be introduced than that the Bill should fall through?—I think so.

363. Do you think that the public would be satisfied with a final decision of that sort by the Court of Referees?—I think that the public who attend to these matters is very limited indeed; the general public do not attend to them; they know that they have a very good railway system. But if by "the public" you mean the counsel, the engineers, the agents, and the directors of railway companies, and those immediately interested, I do not think that they would be satisfied with that state of things.

364. Is it not undesirable that the Court of Preliminary Inquiry, before whom the whole case is not placed, should, by a report such as you refer to, destroy it at its outset, when the difficulty might be got over?—I think that the great difficulty is this; there are very often two schemes competing for the same thing; one scheme is thrown out upon a consideration of this kind, and the public very likely get the inferior scheme, which is not open to that objection. The promoters only suffer by withdrawing their Bill, and coming next year; but the public suffer if they get an inferior scheme, because I think that Parliament very often pass a Bill which is not so good as might be promoted, saying "This is the only Bill before us."

365. *Chairman.*] Would not that be the case with any tribunal which could be constituted?—Yes; but still the merits of the Bill would be gone into by the Committee, and they might say, "Upon consideration of your doing your best to obviate these objections, and putting in proper clauses, we will pass your Bill, because we think that the interests of the public, that you should have your Bill, are paramount and primary, while these objections are of mere secondary importance."

366. Mr. *Milner Gibson.*] With reference to the interference with the Drainage Works, and the Metropolitan Board of Works insisting upon certain things being done by the Railway Company, is the Metropolitan Board of Works to go before the Court of Referees?—Yes.

367. Then is the decision of the Court of Referees upon the question to be binding upon the Committee afterwards?—I think that the ordinary practice has been to hold that decision as binding on the Committee. I think that is going a little beyond what the House intended, and that, I believe, on the principle, "*Boni judicis est ampliare juris dictionem*"; and I think that they have taken a wide and comprehensive view of their jurisdiction. The House could not see this point in all its phases and bearings.

368. Is there not some danger that this court may break down if it exceeds the jurisdiction which it was intended by the House that it should have, and if it goes into questions of policy and opinion?—I think that it might, but where there is such a mass of private business, I think that the Committees will say, "Here is the report of the Referees adverse to you; can you go on."

369. But have we not a great duty to perform to the public by providing in these undertakings the best mode of service that we can. Have we not something to look at besides our own convenience?—Yes, but you asked me a practical question, and I gave you a practical answer.

370. Mr. *Woodd.*] Practically, are not the matters to which Mr. Milner Gibson has just referred settled by arranged clauses?—Generally; I am almost always counsel for the Metropolitan Board of Works, and I have found a very great disposition on the part of the railway companies to meet fair objections of the Metropolitan Board of Works; and I remember that, last year, the Committee of which Lord Stanley was chairman, settled a variety of clauses for the projects then before them, which have been accepted by the railway companies in the vicinity of London almost universally this year, and I have had hardly anything to do before the Committees for the Metropolitan Board of Works on clauses.

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371. Those cases would hardly be taken before the Referees?—Very few. The great case, which the Board had before the Referees (I was counsel before them) was the Piccadilly and Park-lane Bill. I was counsel for the Metropolitan Board of Works both before the Referees and before the Committee.

372. Mr. *Hardy.*] I understand the result of your evidence to be that you would get rid of the Referees, and go back to the system of Committees, except upon the one point, which you have mentioned, of *locus standi*?—Yes.

373. But that if the Court of Referees should be preserved, you would give them in addition the deposit to inquire into?—Yes.

374. And that you would, with a view to lighten their labours, have everything put down in writing which was needed for them as to estimate and as to deposit?—Yes, and if you had that statement of detail I would make the petitioner much more specific in his allegations against those particular points.

375. In fact, you would have a sort of pleading?—Yes. That is an odious word in Parliamentary ears, but it is nothing more than a written statement fairly and liberally interpreted on both sides.

376. *Chairman.*] Have you any other suggestion to make?—There is one other suggestion which I might venture to make, namely, with regard to the *locus standi.* I think that the action of the Referees has been very salutary, but I confess that it is very difficult to reconcile their decisions. It would be of great importance that they should give some reasons for their decisions. I know that that is against the advice which a judge once gave to an eminent military officer who was ordered to officiate as the president of a tribunal; but I think that the decisions of the Referees would be of much more weight if reasons were given for them, and I think that it would very often preclude the same decision being given over and over again. Then I would suggest that the Referees, after the experience of the present Session, might propose to the House some code of rules to govern *locus standi;* perhaps it would be better that that should be done. I have not adverted to one thing, but I must say that the present system of the House of Commons having Referees and the House of Lords having none, emboldens everybody who has an adverse decision from the Referees to say, "I shall petition the House of Lords."

377. Do you find that there is so great a variety of decisions in the case of *locus standi* by the Referees as there was by Committees?—I am hardly a judge of that. From my experience upon *locus standi* before the Referees, I am pretty well satisfied with their decisions, because they have been almost always in accordance with what I have told my clients before; but some of my learned friends, I think, have complained.

378. That must be the case under all circumstances?—Yes; I think that I may say that the disposition of Committees was to hear, and I think that the disposition of the Referees has been a little to exclude.

379. Must not that necessarily be the case with a permanent tribunal; a permanent tribunal gets into a more uniform system of deciding than the Committees?—Yes, but I must say that the rule ought to be rather inclusion than exclusion in seeking to be heard against these exceptional powers. I do not know anything which would provoke greater distrust of the tribunal than an unwise restriction of the right of petitioners.

380. Mr. *Milner Gibson.*] Suppose that you were to limit the landowner to stating his own special case, as to the way in which his property would be interfered with, and not allow him to raise the question of the general policy of the Preamble?—I do not see how you can separate it. A man says, "You are going to take my property; what business have you to take my property? I do not like my property to be taken. You want an exception from the general law of the land, which is, that if property is sold, it must be sold by contract or by agreement. You want to take it from me by a compulsory process, and therefore I have a right to examine what grounds you have for asking for this *privilegium,* as it is called."

381. *Chairman.*] Those are the grounds upon which every Railway Act is founded?—Yes.

382. Mr. *Milner Gibson.*] Might you not hear him to show that the injury proposed to be done to him would outweigh the public advantage, without hearing him generally upon the question whether there was any public advantage?—He must state his measure of public advantage before you could see whether the injury outweighed it or not.

383. Would

383. Would you hear rival companies merely on the ground that the proposed scheme might withdraw some of their traffic?—No. I have always had a very strong opinion that the House has carried the principle of hearing competing companies to a very great extent. I do not think that it has done a great deal of harm, because I think that the policy of this Session has been, in the case of a landowners' line, and wholly in their hands, to disregard the complaint of rival companies; at least, I have been this year very much engaged for what are called aggressors, or speculators, and we certainly have carried more Bills this year, filling up gaps in existing companies' lines, than I remember in any previous Session.

384. Would you hear opposition to an amalgamation scheme, or a scheme for making arrangements, on the ground that a new line would thereby be set up, competing with some existing line?—No, not on the ground of competition.

385. You would not hear the objection to an amalgamation, or working arrangement, that thereby a competition would be set up against another line?—No, certainly not. I do not see what right a company has to say, "You shall not join together to work more economically or advantageously, because it will enable you to compete with us."

386. Mr. *Woodd.*] Do you not think that opposition would almost cease if cases of amalgamation or competition were withdrawn from the Committee?—I think that if you destroyed the ground of competition you would probably make this gallery a desert.

387. Mr. *Milner Gibson.*] You would narrow the question of discussion?—There would be no discussion in the case of six lines out of ten, I think.

388. With regard to *locus standi*, does not the going before a court upon *locus standi* necessitate an additional inquiry still: for instance, a petitioner has first a right to go before the court to have his *locus standi* determined?—Yes.

389. Then he has to go before another court to have the engineering details and other things enquired into?—Yes.

390. And then he has to go before a third court, to see whether his objections can prevail against the preamble of the Bill?—Yes.

391. Does not that *locus standi* court form an additional expense to him?—Yes.

392. Would a counsel consider as one business the *locus standi* court, as well as the other Referee Court?—I think that the practice has varied with respect to that; but, speaking for myself, with the system of having only one counsel, I have told my clients that I must consider them as separate matters, because you might be kept waiting for two or three days before you could get on your *locus standi*, and then another day or two before you could get on your engineering questions: and I have known the question of *locus standi* going on before the Referees when the case on engineering objections was in the next tribunal of Referees waiting to come on, and the counsel would almost be obliged to divide himself into two. But there is no doubt that it has operated rather hardly on landowners, where the oppositions by landowners have been *bonâ fide*. I have been engaged two or three times this year for landowners, where there has been a real, substantial opposition, independent of any subvention from railway companies.

393. Have you known any landowners opposing, without reference to their own particular case, on the general policy of the line?—Yes.

394. A *bonâ fide* opposition?—Yes.

395. That the line was not for the public advantage?—That the line was not so good as another line which they wished to have; not that a line was not wanted for the country, but that the line proposed was not the best line.

396. Mr. *Bonham-Carter.*] As I understood you, it was your impression that in the framing of the Standing Order No. 90, under the first head, the House intended that the Referees should find facts?—Yes.

397. But that, in fact, they also found the application of those facts?—Yes.

398. And that, so far, it was, in your opinion, a deviation from the original intention of Parliament?—It is difficult to give a general answer on such a question. For instance, the "engineering details of the undertaking" must be facts; that is to say, whether the curves or the gradients are objectionable. Then, "the efficiency of the works for the proposed object" is a combination of fact and opinion.

399. Did I rightly understand you to say that the extension, as you believe it

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to be, beyond the original intention of Parliament, in the construction of that particular Standing Order, was desirable, and almost inevitable?—It was inevitable, I think. I do not know whether it was desirable or not. If I think that Parliament has prescribed one thing, and that another thing has been done, I hardly can state that it is desirable, but I think that it was inevitable. I do not think that any language could have been so nice as to fix the precise line between the two subjects of inquiry.

400. Mr. *Hardy.*] It was the finding of the jury upon the facts?—Yes.

401. Mr. *Bonham-Carter.*] In your opinion, is it trenching upon what you assume to be the functions of the Committee, whenever the Referees go beyond the simple facts and give opinions, which are not limited to the statement of facts for the Committee to decide upon?—Yes. For instance, the "efficiency of the works" must be a compound of fact and opinion. You cannot say whether a thing is efficient or not, without expressing an opinion.

402. Would you therefore alter that Standing Order, so as to make the limitation of the practice, or the direction of the practice, of the Referees, if they continue, more clear?—I think that that is a matter for Parliament; it is a matter for Parliament to determine, if they continue the tribunal, what they will confide to the Referees, and what they will leave to the Committees. I do not think that I am competent to say what Parliament should do on such a matter. By altering this Standing Order you may make the Referees the judges of the policy, and give them practically the whole control over the Bill, leaving the Committee nothing to do; a very little would, in point of fact, give the Referees the whole power of decision over the Bill.

403. Your opinion is that the practice under the Standing Order differs somewhat from what was originally contemplated by those who framed it?—So I have thought.

404. You have also stated that although the Referees do give opinions upon certain points, they are precluded by their practice from giving opinions of another class, namely, opinions upon certain competing schemes which might come before the Committee?—Yes. In point of fact, according to their construction, if you set up an alternative line beyond the limits of deviation, they can say nothing at all about it, and it is a matter for the Committee whether they will prefer the alternative line. Of course that preference must be founded on engineering details and efficiency of works.

405. *Chairman.*] Is it exactly so; have not the Referees exactly the same powers as the Committee. The Committee have no power to consider an alternative line which is out of the limits of deviation, so as to carry the alternative line?—Not with the power of carrying it; but the Committee may say, "You have not taken the best line for the country, and the opponents have shown that you ought to have taken another line." The promoters of the line say, "That is impossible; you will have a gradient of 1 in 30 or 40." That was the case very much in a series of discussions not yet ended, for carrying the narrow gauge over the Mendips.

406. Mr. *Woodd.*] Practically, Committees do not go into alternative lines?—I think that of late years they have rather distrusted the suggestions of alternative lines.

407. Mr. *Hardy.*] In fact, these alternative lines are brought before a Committee without any of the safeguards with which other lines are brought before them?—Yes; without plans or deposits.

408. Mr. *Woodd.*] Practically, the Committee have declined to go into the consideration of a line which has not been before them?—Yes; and I think that in some cases it has acted a little harshly upon landowners, who have said, "You have taken a line cutting through a beautiful country, and you might have avoided it by going half a mile away."

409. *Chairman.*] But surely that applies to the Committee as well as to the Referees?—Yes, but the difference is this: the Referees pronounce upon the merits of the line before them; but if an alternative line be set up, the Committee may go into the merits of the alternative line, and pronounce upon the engineering, which, in the case of a Bill before the Referees, is a matter not within the scope of their jurisdiction.

410. Are you not aware that there is a Standing Order which enables the Committee to send an alternative line to be considered by the Referees?—I think not. I am not aware of such a Standing Order.

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411. They can refer anything?—You mean that they can "refer any question which they may deem suitable to be so referred." *T. Phinn*, Esq., Q.C.

412. Yes?—But I apprehend that that means a question within the purview of the other Standing Orders, because, if otherwise, they might refer a question of policy to them. 9 June 1865.

413. Mr. *Bonham-Carter.*] In my question I meant a competing line?—We generally apply the term "alternative line" to a line suggested by a landowner, or other opponent, as a better line, though it is not practically in a condition to present itself to the Committee.

414. If I rightly understand you, you consider that from the practice of the Court of Referees there is occasionally a failure, with regard to public benefit, by the Referees feeling themselves restricted by the wording of the Standing Order to dealing only and alone with the particulars of the scheme before them?—Yes.

415. For instance, supposing a line of railway which on engineering in its details appeared to them to be good, if they found that the estimate was, in their opinion, so deficient as to justify a report to that effect, it would in effect reject that line, and another competitive line might come before them subsequently, but not coming before them in a group, where it might be considered in the Committee as competitive, it might be sent forward, because its estimate was correct, though its engineering qualities were not by any means as good as those of the line which was rejected?—Yes; that is a case which occurred in the East and West Junction Line.

416. But could not that be met by some variation of the powers of the Court of Referees?—Yes; I think that the Referees might very properly report that, in their opinion, the estimate was deficient by so much, 20,000 *l.* or 30,000 *l.*, or whatever the sum was; and if you retained the deposit, the promoters might apply to deposit the sum of 8 per cent. upon that increased estimate, and then the Bill might be allowed to proceed.

417. Is not it the fact that lines are improved during their progress, and that application is made for additional provision?—In a great many instances.

418. So that the case which I mention would be something analagous to that, and would be brought within the jurisdiction of the Court of Referees if they continue?—Yes; if you retain that strictness as to estimate.

John Robert Davison, Esq., called in; and Examined.

419. *Chairman.*] I BELIEVE that you have practised a good deal before the Court of Referees?—I have, and principally on questions of *locus standi*. I generally, as a rule, go before them on the questions of engineering, but I have always made a point of attending the Referees on questions of *locus standi*. *J. R. Davison*, Esq.

420. Do you think that the mode of discussing questions of *locus standi* before the Court of Referees is an improvement, or otherwise, of the old system?—I did not practice to any extent before the year 1859; I may say that 1860 was the first year in which I had anything like a large practice. The result of what I have seen before the Referees is, that the matter is much better discussed before a tribunal which is dealing from day to day with cases of the same sort than it was before a varying tribunal, either in this House or in the other. I might, perhaps, endorse the suggestion which Mr. Phinn has made, that I think that it would be better, if possible, that the Referees should state some reason in giving their judgment, instead of simply saying "*locus standi*, allowed", or "disallowed;" or, possibly, better still that they should before next Session, or at the end of next Session, when their experience will be larger, draw up some Standing Orders or code of practice as regards who are entitled to be heard and who are not, because, as you are aware, the present state of things is, that there is actually, I believe, no Standing Order under which a landowner is heard; it is a mere matter of practice. I was not aware of that before the institution of this Court, but it has been drawn to my attention for the first time, that there is no Standing Order under which landowners are heard, although they are usually heard where their land is taken. I would only suggest upon that point, that I think that some Standing Orders might be easily drawn up upon questions of amalgamation, to which I attach great importance, and questions of competition where it is now in the discretion of the Chairman of Ways and Means or of the Referees; I think that a code of procedure is much better where you have a fixed tribunal.

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421. Have you any other suggestions to make upon the question of *locus standi*?—I do not know that it is desirable that I should say anything upon the question of time and expense; I think that it was put by my learned friend, Mr. Mundell, to the Referees, who partly adopted that suggestion, that the questions of *locus standi* should be taken upon the first day, and be put at the top of the list, thereby keeping a large number of witnesses in waiting while questions of *locus standi* were being discussed, which I have known in this Session to last in one case for two entire days. I have no other suggestion to add upon that point, except that I generally agree with Mr. Phinn.

422. Will you give the Committee your opinion upon the whole system of the Referees; whether you think it a beneficial alteration of the old system or not?—I have paid the very best attention which I could to the matter, not only by considering it fairly, but by inquiring from other persons who have practised before the Referees, how far it is beneficial in its general bearing. I think that there are not two opinions upon the question of there being a Court for points of *locus standi*; but I am bound to say that I think that the more the matter is discussed, as regards the general features of engineering, the stronger the feeling is that very little advance is made over what was done by the Committees in the last Session. I came from sessions and circuit practice, and only came into anything like large Parliamentary practice in 1860, and, without knowing that the Court of Referees was a matter to be discussed, I certainly thought that last year, which was the heaviest year in my experience, and I believe the heaviest year since 1846, the business was conducted in a manner which was very far in advance of the state in which it was when I first came into practice; I mean especially with reference to the brevity of the inquiry. I quite agree with Mr. Phinn, that investigations into engineering and estimates have been the creatures of the Courts of Referees; and they have, no doubt, been dealt with with the greatest possible ability. They have only been gone into exceptionally during the four or five years in which I have been in practice. As Mr. Phinn has said, I remember only one instance where a Bill was really thrown out upon estimate, and that was the case of some line in North Devon; but I have known of three or four instances where the question has been raised. The Chatham and Dover Line, to Blackfriars and Victoria, was fiercely fought by the Brighton Company upon estimates; but with very few exceptions the inquiry, both into engineering and into estimate, was very far short of the inquiry which has now been going on before the Referees; and though I fully believe that the matter has not only been carefully, but well done, yet I think that, in the course of another Session, matters will settle down, and that objections to estimate will be very much fewer than they have been this Session, when the engineers will be prepared to meet the objections of opponents, and that the engineering details will be prepared with still greater care. At the same time, I cannot help thinking that the division of that part of the inquiry from the question of general policy is not, so far as I can see, of advantage to the public, or any of the parties interested. With reference to the table which was put in yesterday as to the number of Bills and the state of advancement which they were in on the 31st of May, I would observe that last year was an unprecedentedly heavy year, not only in the number, but in the quality of the Bills. The Metropolitan Bills alone were of very considerable magnitude, and took a very considerable time, and before I could arrive at a real estimate of what the result of those figures is, I should like to know how many Committees were sitting, how far the Bills were pushed on, so as to get ready for the termination of the Session, and also with reference to the number of opposed and unopposed Bills.

423. It would appear on the face of it, supposing that all things were equal in this respect in the two Sessions, that the inquiries have been conducted with much greater brevity this Session, taking them altogether, than in any Session within the last few years, if we can judge from the statement to which we have just referred?—It would appear so on the last two years, no doubt.

424. Supposing all things to be equal, there has been a very great diminution in the time occupied in the investigation of those Bills?—Yes, I do not at all wish to undervalue it; I do not know whether the time occupied by the Referees is included. We know in practice that very often an Honourable Member gets hold of a group which lasts him for six weeks or more, whilst another Honourable Member is Chairman of a group which is over in as many hours. But I know as a matter of practice, that this year there have been no Bills which

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I am aware of, of anything like the magnitude that we had in last Session. The Great Eastern Northern Junction, or the Great Northern Junction, was a matter of some six weeks inquiry before Sir John Hanmer. I know of nothing of that sort this year. I think that the largest Bill this year has been the Bill for the Manchester and Sheffield Company's new lines to Liverpool, which has only been in Committee eight or nine days. *J. R. Davison, Esq.* 9 June 1865.

425. If Parliament should decide to continue the system of Referees, have you any suggestion to make for an improvement of their proceedings?—I would suggest this as regards alternative lines; and I have drawn, at any rate, Mr. Hassard's attention to it more than once. It seems to me that the object of the House was to bring petitioners, landowners, and others, to oppose the engineering, as it appears on the deposited plans and sections; and I confess that it appears to me that promoters, who have ample time to discuss what they mean to propose to Parliament, should be bound to adhere not only to the limits of deviation, which are very large, as regards their undertaking; but that, where works are shown in the shape of docks and works of that description, they should be bound conscientiously to the plans which they have deposited according to the Standing Orders of the House. Carrying that out, I think that the Referees should have the power, which I believe they have not at present, to inquire into the engineering details of alternative lines set up by the petitioners; that is to say, that a landowner, objecting to a line passing through his property, should be entitled to show the Referees that a better line could be made outside the limits, not affecting his property or anyone, injuriously.

426. You think that the Referees should have that power, without going to the Committee upon the Bill at all?—Yes, I think so.

427. And that the Committee should have power to legislate without any detailed estimates, or any plans?—Yes; and no doubt they exercise it.

428. That must be a very perfect inquiry?—Yes, necessarily; but I think that the Referees should have authority under this Standing Order to inquire as to the power of making an alternative line, even outside the limits of deviation.

429. Then how do you interpret the 92d Standing Order: "The Select Committee to which any Bill has been referred may, subject to the approval of the Chairman of Ways and Means, refer any question arising in the course of their inquiry, which they may deem suitable to be so referred, to the Referees for their decision, such question to be stated in writing, and signed by the Chairman of the Committee." Under that Standing Order cannot the Committee refer an alternative line, so far as the engineering details are concerned, to the Referees?—I think not. I think that that is very much in the nature of an arbitration, where the wish of the court is to refer the matter back to the arbitrator. I think that it must be a matter which is before the Committee, and which has been before the Referees.

430. Would not it come under that head if an alternative line is proposed; would not it fall within the question of estimate, and those points which are now constantly referred to the Referees; and has not the Committee the power to refer those subjects back to the Referees?—I think not, for this reason, under the Standing Orders the Committee on the Bill has power only to deal with lines promoted by plans before Parliament. The Bill is on the table of the Committee, and the scheme is before them, but they cannot entertain a line not arising upon the Bill which is on the table, and which line has not been before the Referees, and is not a matter which is able to be carried out under the Bill.

431. The words are, "May refer any question arising in the course of their inquiry." Surely the question of an alternative line comes under those words?—I think not.

432. Mr. *Woodd.*] These alternative lines are never accompanied by plans; there is nothing tangible to which the Committee can refer back?—So it appears to me. Then I think that the Referees, if they are to be continued, might have power to compare rival lines seeking to occupy the same district. There have been cases of that sort, and I believe that under the Standing Orders the Referees are of opinion that they have not the power to deal with those lines. I would suggest that in the case of rival lines the Referees might deal with both, by way of comparison with the engineering points.

433. Mr. *Hardy.*] Do you mean that they should deal with them as rivals, or

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that they should give their opinion separately?—That they should deal with them as rivals in their report.

434. Practically, they do give a report upon each?—They do give an opinion upon each; but as the Committee almost invariably take rival lines together, so might the Referees, and compare them. At present they give a distinct report as regards one and the other.

435. They also state at present that they are rival lines, and call the attention of the Committee to their merits?—I was not aware of that; I thought that they had held that they had not the right to do so.

436. It is only upon engineering points?—Yes.

437. *Chairman.*] You have heard what Mr. Phinn has said with regard to the *onus probandi* lying with the objectors; what is your opinion upon that point?—I think that it has worked well in the main. There have been cases of docks where there has been a difficulty, and I rather think that in one or more cases the promoters have been compelled to put their engineer in first, so that the objectors might know what the engineer for the promoters was going to do, as it was not shown upon the plans and sections. But as a rule I think that it works well to leave it to the opponent to say, "I object to this as shown upon plans and sections." In the other case, you enter into a great deal of minutiæ, which is unnecessary under the present system.

438. Supposing that the Court of Referees is abandoned, do you think that it would be an improvement in practice that all matters of engineering and detail, now submitted to the Referees, should be conducted in the same way; namely, that the objectors should have to prove their case in the first instance?—It appears to me, practically, that that has been so. You put your engineer into the chair, and the amount of his engineering evidence is very little; he is asked, "How many tunnels have you? What is your highest embankment? What is your viaduct?" and then you leave him for the opponents to cross-examine him; and they can only go into the evidence upon the points on which they cross-examined him. The reason why engineering evidence is so long is, that engineers come to speak upon policy. Mr. Hassard will bear me out in saying that in one part of Yorkshire Mr. Hawkshaw and I have spent days and days, and all the evidence has related to agreements, and in no single instance to any detail of engineering; and I believe that, as a general fact, the principal engineers speak as a rule to the general policy of dealing with the district, rather than to the engineering. Few, probably, are better judges in that respect, and are much more competent to speak upon that point than I am. There is one other point which I may mention. It has been asked whether matters, after they have been decided by the Referees, have been re-opened by the Committees. There is one set of questions which perhaps are mixed questions, and which are exceedingly difficult to deal with, namely, questions of streets. Take the Midland Company, who sought this year, amongst other things, to obtain power to stop up a street in Bradford. I was asked to advise the Bradford Corporation, in whose power the streets are, whether they could dispense with going before the Referees. I advised them that they could not; we went before the Referees. Mr. Hassard was in the Chair; they heard my evidence, and the report of the Referees was, that there was no engineering reason for stopping up the street. It was a question of enlarging the Company's station, and they said that they were entitled to take the street for their purposes. We went before the Committee; I think that Mr. Perry Watlington was in the Chair, and the whole matter was gone into; we had a number of witnesses; there were several other opponents upon the same point, and the result was, that we went away satisfied, getting the price of a new street instead. There is another case of the same kind, dealing with streets in Glasgow; where the Caledonian Railway Company sought to take certain streets in Glasgow. And there is another case which was also heard, namely, the Edinburgh and Glasgow Lines (Number 2) Bill, which closed up a street, in which case the police Board, the authorities having the control of the streets there, also opposed the Bill before the Committee, of which Mr. Mills was Chairman. Those are cases (and I believe there are others) where a difficulty has been found, from the case being a mixed one, in knowing whether it was for the Referees or for the General Committee.

439. Mr. *Milner Gibson.*] In the street cases would it not have been better to have reserved those subjects for the Committee, and not to have gone before the Referees?—In the result it would appear to be so, but had not the Bill gone before

before the Referees it might have been said, "This is an engineering question," and in one sense it is; it is crossing a public street upon the level, and taking powers to stop it up by Act of Parliament; it is engineering in one sense, though it is a question also of policy.

440. Mr. *Bonham-Carter.*] Upon the question of stopping a street there would be the question of policy, and the question of detail?—Yes.

441. And the question of engineering detail reported upon by the Referees, whether it was necessary for the purposes of the company that the street should be taken or otherwise, would be quite different from the question of policy?—Unquestionably, and I believe that it was so reported in each case to which I have alluded, and the Committee heard the matter over again. I was only mentioning that as an instance, in answer to a question from an Honourable Member, as to whether the matter was twice discussed, and as to whether it is a question for the Referees or not.

442. The Committee, I suppose, took the engineering point from the Referees?—The whole question of gradients was gone into. In the Bradford case it was a question of gradient, the street by the station which was scheduled being a street which was to be closed by the Act of the Bradford Company in taking the street.

443. In that case, did the Referees state that there were no objections to the engineering details proposed?—No; their report in the Bradford case was that there was no engineering reason for closing the street.

444. *Chairman.*] The policy of it remained with the Committee?—Yes; and it was dealt with by the Committee; the whole matter was gone over in a much more ample manner than that in which it was done before the Referees. We put before the Referees enough to state our case, and then reserved our case for the Committee.

445. Mr. *Bonham-Carter.*] As a matter of practice, is it not the case that the promoters begin where the works are not required to be shown on the deposited plans, such as bridges?—I do not know that there is any settled practice on the subject, but where the plans are shown, opponents begin; but in certain cases, and, I think, in cases of bridges, where no plans or sections sufficient in detail are shown, if an application has been made to the Referees, the Referees have ordered that the promoters of the line should call their engineer.

446. That is to say, that when that which is subject to objection is not patent, you make it patent by calling the promoters to explain it?—That is so.

447. *Chairman.*] Have you any further suggestions to make?—I, perhaps, may add shortly, that I agree generally with what Mr. Phinn has said, and especially with regard to what he said about the reduction of the number of the Committee. I think that there is a general opinion amongst us, that with three Members we should have a tribunal with which the public and ourselves, so far as we can speak on the subject, would be perfectly satisfied. As regards the question of estimates, I do not attach the importance to it which my learned friend Mr. Phinn does, because I think that if the Referees are continued, in the course of a year or two years, there will be as few objections to estimates as there have been in the latter portion of the old system, and that it will wear itself out. It was, of course, a great thing for the great companies who had ample funds at command, to see whether they could send down somebody who could find parties tripping who were not aware of the amount of evidence which would be required to support their estimates.

448. Mr. *Bonham-Carter.*] I understood you to say, that in your experience there has been greater brevity in the carriage of Bills before Committees, and closer and more accurate inquiry during the practice of this Session?—I think much greater brevity. I think that last year the number of Bills, and the amount of work got through, was very much greater than in any previous year with which I have had to do.

449. Is that assuming that the investigation was equally effectually conducted?—Yes; except that as regards the engineering I agree with Mr. Phinn, that the Committees have been rather impatient at our putting the engineer through the examination which we are instructed to make "How much do you take for your bridges; how much for your engineering, and how much for your earthwork?" but I think that that arose more from the disposition of parties to meet each other than to fight to the death.

450. Was it at all, in your opinion, attributable to the different feeling of

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Committees, towards the end of a Parliament of some duration, from their feeling at the beginning?—My experience is very small, but undoubtedly I must attribute it to that to a very considerable extent; in fact, I attribute the way in which the work has been got through by the Referees, mainly to the experience which they have had.

451. *Chairman.*] From your experience, do you think that the great railway companies would be satisfied to leave the decision of their interests to a Committee of two?—Scarcely, I think.

452. You think, that unless the tribunal consisted of three Members permanently sitting, there would be great dissatisfaction?—If there were any accident or any special cause by which the absence of the third Member was rendered necessary, I have no doubt that the large companies would be satisfied rather to waive the third Member being present than to incur the expense of having a renewal of the inquiry; but I think that they would scarcely be satisfied with less than three Members to begin with, though I have no authority to make that statement. It very rarely happens that we have any of the Members absent from any cause whatever. This Session, once or twice I think it has happened; I do not remember more than two instances, but I know that there has always been every disposition, on the part of opponents and promoters, where it has occurred, at once to accede to the business going on.

453. You are not aware of the number of times that the Chairman of a Committee this Session has been obliged to report to the House, under the Standing Order, that a Member has been absent?—I was aware that on one Committee this Session a Member had been absent, but I was not aware that he had been reported.

454. But supposing that the average number of absences were to go on with Committees of three which have gone on with the Committees of the present Session, there would be considerable inconvenience occasioned to parties appearing before these Committees?—That is a question which I am not competent to answer, because I do not know what the number of absences is, and I have no means of knowing.

455. But you think that the absence of one Member of a Committee of three would be of essential importance?—I say that I do not think that the public would be satisfied with two Members for the inquiry, but I think that they would not be dissatisfied if in the course of the inquiry the third Member was occasionally absent. As regards the question of one counsel, I have had a good deal of experience, and I know that in several cases this Session the appearance has been entered in blank, and the company has retained two counsel, so as to get the chance of either one or the other. That is one case. I should also say that very large fees have been offered. I have been offered them myself, and have been compelled to refuse them, it not being consistent with my duties to other clients who were engaged in business in General Committees.

456. Do you think upon the whole that the fees which the Parliamentary agent has been obliged to offer to counsel, have been much greater before the Referees than they would be before Committees, in consequence of the restriction to one counsel?—I believe that as far as counsel are concerned, and I think that I might almost say generally, the Court of Referees, has led to an increase of expense, and especially not only with regard to counsel, but skilled witnesses. I have known Scotch cases, where there have been something like eight or nine witnesses in attendance every day for six or seven days, skilled witnesses from Edinburgh or Glasgow, and at last the parties have abandoned their opposition, and the witnesses might as well have been in Glasgow or Edinburgh the whole of the time.

457. Mr. *Bonham-Carter.*] Am I to understand you, that you think that the inquiry is not materially shortened by the inquiry into engineering and estimates?—I think that the division of the matter has, from the anxiety of both promoters and opponents, led to an increased length of inquiry in both cases.

458. Am I also to understand that, incidentally, the public has got to a certain extent, and will get hereafter, the advantage of greater care in the preparation, both of the engineering and of the estimated funds; for the purposes of the work?—I do not think that the public get very much benefit in the one case or the other. The object of all companies, especially large companies, is to make their lines as good as they can to suit the requirements of the districts which they

they will have to serve, and the difference between the plan which is deposited and the working drawings, and the way in which the line is laid out, is evinced every day in my experience, and that matter is one which comes within the cognizance of the Right Honourable President of the Board of Trade, who has a control in that respect.

459. Is it not the prevalent practice that small lines to fill up intervals, are bought by the large companies?—Yes, many.

460. Is not the effect that the large companies criticise very closely those lines?—No doubt they are very much criticised, but the lines are generally made as deposited, unless they meet the fate which many have met from the engineering difficulties.

461. As far as regards the guarantee to the public that the lines laid out are as good as they might be, it depends very much, not upon any direct operation of the public, but upon the accident whether the lines interfere with the great existing companies?—I think that it does to some extent. If there is a line in a district, without a great company at either end, it is left to take its fate. The landowners do not care much, but they want the line. I have an illustration at Skipton, in Yorkshire, where the great companies have brought the case before the Referees. The landowners have in many cases supported them, but they would not have gone before the Referees to inquire into engineering.

462. Mr. *Milner Gibson.*] Have you considered carefully the Standing Orders of last Session, which define the jurisdiction of the Referees?—I have not, with reference to the point which you put to Mr. Phinn, with regard to facts and opinions.

463. What is your interpretation of the words "the efficiency of the works for the proposed object"?—I am afraid that I put a very confined construction upon them. You have the country given to be filled up by a line of railway communication, and it almost rests upon the question of junctions.

464. Supposing that the scheme, which was brought forward last year, of a pneumatic railway under Oxford-street was proposed, and that the inhabitants of Oxford-street objected to that scheme, on the ground that it was a novelty and that it would fail, and it would not work, and that it ought not to be sanctioned, would the street authorities go before the Referees, and call for an opinion as to whether that work would be efficient or not for the purpose?—I think that they might.

465. Would the opinion of those Referees, having heard the street authorities, be conclusive or fatal to the scheme if they thought that the engineering difficulties could not be overcome?—It would, according to the practice of this Session; and I agree with Mr. Phinn that, if the Referees are to continue, it ought to be so. Unless their finding is final, the inquiry might as well not take place.

466. If the opposition was on the ground that the scheme would be a failure for scientific reasons, would it be satisfactory to have it disposed of finally in that way?—I am not prepared to say that it would not.

467. The Referees would only hear a little part of the whole case?—They would only hear that bare question, apart from matters of policy, no doubt. Matters which might weigh with the Committee might, when they were divided, not weigh either with the Referees in one case or with the Committee in the other.

468. Are you of opinion that under the Standing Orders, as now framed, the opinion of the Referees upon the efficiency of the works may not be re-opened by the Committee?—I would rather not give an opinion upon the words of the Standing Order, but as a matter of practice. I do not think that any of the Committees which I have seen (and the point has been very much discussed) would hear the question re-opened.

469. Is it not necessary that the Standing Orders should clearly define what is the province of the Referees; where they are to be conclusive, and where they are not. Have not the public a right to require that, so that they may not be put to unnecessary expense in attempting to re-open a case which is concluded?—When I first read the Standing Orders I contemplated the matter being re-opened from the Referees to the Committee; but in practice it has not been done, and, in my opinion, if the Referees continue, whether the Standing Order makes it so, or not, their finding should be conclusive as regards the matters referred to them.

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470. Have you considered any alterations which you would like to see made in those Standing Orders?—None, except that to which I have alluded with respect to the counsel.

Thomas Coates, Esq., called in; and Examined.

T. Coates, Esq.

471. *Chairman.*] YOU have had considerable experience as a Parliamentary agent in the business of this House?—I have.

472. Will you state your opinion to the Committee with regard to the working of the system of the Court of Referees, first with respect to saving the time of Members; secondly, as to expense; and, thirdly, in the expedition of business?—As to the saving of time to Members, I am incapable of judging whether it has saved time in particular Bills or not. That it has saved time in this respect is certain, namely, that the decisions of the Referees have in some cases disposed of Bills altogether, that is to say, their reports being adverse to certain engineering details in Bills, those Bills have either been withdrawn or have been rejected by the Committee.

473. And in the case of Water Bills, I believe that the decision of the Referees has precluded the necessity of going before the Committee?—Yes; within my own experience it has afforded millowners an opportunity of stating their objections before the Referees, and the Referees' reports have provided for a supply to them, or at all events have defined their rights incidentally, and have provided a mode of satisfying those rights, which has prevented them from going before the Committee. Therefore, in those respects I have no doubt that time has been saved. On the other hand, with respect to Bills which have been brought before the Referees and before Committees, I cannot say that in my experience much time has been saved by the preliminary inquiries before the Referees. My experience of the working of the system this year, I think, would go to this, that various objections have been taken, and especially by the great companies who have large funds at command, before the Referees which would not have been taken before the Committee. I like to keep the question of *locus standi* separate; but undoubtedly objections have been taken to *locus standi*, which I think would not have been ventured upon before the Committee on the Bill. I also think that matters of estimate and matters of junction, and details of engineering, have been discussed before the Referees which never would have been discussed before the Committees at all; I think that minute matters have been gone into, and gone into, I believe, advantageously to the public, which never would have been discussed before the Committees, or if discussed before the Committees, would have been disposed of very briefly, indeed. Therefore, I really do not know, and have no means of judging, whether the inquiries before the Referees upon Bills which have subsequently been opposed before Committees have much abbreviated the labours of the Committees. Then as to expense, I think that there is a universal concurrence of opinion that the expense has been vastly increased by this additional inquiry (I use the word "vastly" advisedly), and this not in consequence of the proceedings of the Referees themselves, but as a necessary result of having an additional Court and an additional stage of inquiry. The fact that a case is to be discussed upon a particular day before a particular tribunal renders it, of course, necessary that the witnesses, who usually come from a distance, should be up one or two days previously. My partner, Mr. Parkes, drew up a Table of cases in which he was personally concerned, and it was quite surprising how large the expense was, which has arisen entirely from the fact of a separate and distinct inquiry. For instance, if a case is fixed before the Referees for a Monday, the witnesses and the skilled engineers, if they come from the country, must probably be up on the Friday ready for consultation on the Saturday, for the Referees meet, as we know, at 11 o'clock. The witnesses are, therefore, in town two or three days; but undoubtedly, on the average, for two days before the day fixed for the inquiry. The expense which arises from the witnesses staying in town during the inquiry, I assume to be common both to the Committee and to the Referees, but the waiting for the inquiry is proper to the Court of Referees, therefore that increase of expense is incident to this new system. No doubt the expense may be diminished by classifying the Bills to be taken on a particular day with

with regard to the greatness or the comparative insignificance of the cases, but it will always be difficult to prevent that sort of expense. Then there is the additional expense arising from fresh briefs to counsel, for the inquiries are separate and distinct, and the brief to counsel before the Referees is a separate brief from the brief which he has before the Committee; that is a considerable addition to the expense to the suitor.

474. Do you give retaining fees before the Referees?—That matter was not determined at the beginning of the Session, but I think that it is now determined that a separate retaining fee is not given before the Referees; that the retaining fee is for the Bill in the House of Commons, and covers the attendance before the Referees. Then the circumstance of having only one counsel often considerably increases the expense of counsel. It is a fact tolerably well known, that large special fees have been given to counsel, those large special fees exceeding, to my knowledge, in two cases, the fees which would be required for having three counsel in the case every day. This involves a twofold hardship; it is hard upon the counsel who is retained, and is perhaps obliged to refuse the briefs of clients for whom he is accustomed to act, and it is very hard to the suitor who, perhaps, had not the benefit of the advice of two or three counsel upon whom he has been in the habit of relying, but who must rely upon one counsel who must give his undivided attention to the case; that is, as to the expense. The saving of time to the Committee is involved, I think, in the previous head of inquiry, namely, whether the establishment of the system of Referees has tended to the expediting of business, but the facts are not sufficiently before me to enable me to give an answer upon that point.

475. In your calculation of expense you have not included any saving which may have been effected by the shortened inquiry which has subsequently taken place before the Committee?—I have not; for the increase of expense I put solely upon the ground of the separate inquiry.

476. Supposing that it should turn out on investigation that the inquiries before the Committee have been, on the average, shorter in this Session than previously; that difference must be set against the increased expense which you have just stated?—Undoubtedly; assuming the Bills of this Session to be much the same as in ordinary Sessions.

477. Mr. *Woodd.*] With regard to the increased expense of witnesses; does not it sometimes happen that Bills are fixed before ordinary Committees several days before they can be heard?—No doubt; but that accident will happen still.

478. You state it as an objection to the Court of Referees that cases often get fixed for a day, which are some days before they can be heard?—Not as contrasting them with the proceedings of Committees, but only as a fact which induces a further expense upon the Bill.

479. You believe that the same thing may still occur before a Committee?—Yes.

480. The Committees are obliged to fix Bills two days previously, and to give full notice to the parties?—Yes.

481. And in order to prevent their being shut up for want of business, they occasionally fix Bills which do not come on for two or three days?—Yes, and it is inevitable, and quite proper that it should be so.

482. Your argument is, that that still occurs if the inquiry has been held before the Referees?—Yes, and it is inevitable.

483. *Chairman.*] Will you proceed with your observations?—I am not sure, so far as I have observed, that the preliminary inquiry has much shortened the proceedings of the Committees upon the Bills. I think that the Chairmen of the Committees who are present will bear witness that the mere engineering, except in great cases, such as the crossing of the Severn, or, for instance, the case which the Right Honourable gentleman supposed, of the tunnel under Oxford-street, does not usually occupy the Committee a very long time now-a-days. Engineers themselves are so careful in the preparation of their plans, that usually they do not, I think, have their plans very largely discussed. There are exceptional cases, where there is some great blot upon the plan, or perhaps some great difficulty to overcome, such as mountain passes to get over, in which, perhaps, it is imputed that a great blunder has been made, or that the line is unnecessarily expensive; but I do not think that cases of that sort form a large portion of the

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inquiry before the Committee, and I do not think that the preliminary inquiry will tend to shorten the labours of the Committee upon the Bill.

484. Can you suggest to the Committee any improvements in the plan, supposing that it should be decided to continue the Court of Referees?—I think that I can. The proceeding of the Referees has varied a little; they have acquired experience, no doubt, and their practice has varied a little; but I think that the principle upon which they have generally gone is that what they have to deal with is (if I may so say, without affectation), the intrinsic qualities of the work itself, without considering much the operation, whether upon landowners, or upon the neighbouring property, or roads or navigation. The inquiry has usually been confined (I know that there are exceptions), to that which is inherent in the line itself. I think that the sufficiency of the line for the purpose which it has in view has guided the Referees in their decisions, and supposing that a good line is made between the one point and the other, then the effect upon turnpike roads, or the effect upon landowners, has been rather excluded from consideration. Now, I confess that I cannot see the propriety of that, and it strikes me as a hardship to landowners, that they should not have the objections which they have to raise, arising from the effect of the works upon their property discussed before the same tribunal, as discusses the intrinsic merits or defects of the work. Therefore I certainly, not extending the powers of the Referees at all to questions of expediency, but confining them to questions of fact, would have them discuss the effect of the works upon the property of the petitioners against the Bill. Then, as to alternative works, I think that the Referees ought to have the power to discuss them. The practice has been hitherto very indefinite before Committees as to the setting up of alternative works; some Committees have discussed alternative lines upon somewhat vague information; others have discussed alternative lines upon the condition that the plans and sections should be furnished to the promoters, or, at all events, that there should be a distinct definition of the thing set up in the stead of that which the promoters have before Parliament. It seems to me that so confined, that is to say, after defining what an opponent should do in order to prove his alternative work, the Referees ought to be able to discuss, and ought to discuss, that alternative work. I do not mean a competing line, but an alternative line, which a landowner, or another person sets up, in order to avoid the injury which he says the projected line will inflict upon his property.

485. You do not think that it is sufficient to give the power to the Committee to send that matter to the Referees, if it should arise before them in the course of their inquiry?—I think not. The Committee has a group of Bills before it. I will not take this Session, when everything is in a hurry, and when we are expecting a speedy close of the Session, for it would be unfair: but at all events the Committee has a number of schemes before it—some of which are competing schemes. Then is the competing scheme to be suspended whilst the alternative line is referred to the Referees for them to meet and discuss and report upon it? That becomes a hardship to opponents, it becomes inconvenient to the Committee, and very much increases the expense. I never relied much upon that power of referring a Bill back to the Referees; the Committee have the counsel, the witnesses, and all the parties before them, and it seems to me far more convenient that they should dispose of all questions arising before them themselves than that they should suspend their proceedings whilst those questions are referred to another tribunal.

486. Mr. *Milner Gibson.*] You think that the facts which the Referees now find are not very necessary for the Committee, that they do not give much relief to the Committee, and you think that there might be some other facts which, if found by the Referees, would afford more relief to the Committee?—I think so. I think that in some particular cases the labours of the Referees have been invaluable to the Committee. I will take that very instance of the crossing of the Severn.

487. Then would you lay down in the Standing Orders some new facts which the Referees should find?—Yes, assuming the tribunal to remain.

488. What they find now you think are not the right facts?—I think that they are the right facts, but that they are not of so much importance as to justify the amount of labour which they devote to them.

489. *Chairman.*] Were you engaged on either side in the case of the Severn Bridge?—I was.

490. Did you attend before the Referees through the whole of that investigation?—No.

491. Did you attend sufficiently to become acquainted with the way in which that investigation took place?—Yes.

492. Should you say that that investigation was conducted with greater brevity than would have been the case before a Committee?—I think not; I think that it was conducted in a very masterly way.

493. Mr. *Milner Gibson.*] Do you think that you could put upon paper some definition of the new kind of facts which, in your opinion, the Referees could find with advantage for the Committees?—I think that I could.

494. *Chairman.*] Perhaps you will have the goodness to put in your suggestions in writing for any alteration of the present system of Referees, provided that the system is continued?—I will do so. With respect to estimate, I have no doubt that the learned counsel are quite right about it; that it is a great hardship for the opponents to begin in denying the adequacy of the amount. I have no doubt that the engineer for the promoters ought, if the estimate is impugned, to go in first of all, and describe what works he intends to execute. To revert to alternative lines; I will mention, by way of illustration, a Midland Bill; a part of the scheme was to abandon the line which the company were authorised to make, and to substitute for it an existing line which had been a coal line. I was concerned for a landowner who was an opponent to this abandonment of one line and substitution of the other. The Referees declined to enter into the question of the superior merits of the abandoned line; that was a decision which I have never been able quite to justify in my own mind; but that is an illustration of the difficulty which a landowner has. The question of the abandonment of the one line involved the accommodation afforded by the other line; they were matters of fact, and, as it seemed to me, entirely within the sphere of the Referees, but the Referees declined to enter into that question; they said that it was an alternative scheme, that the other line was not before them, and that, therefore, they would not discuss that matter; and the landowner would have had to go before the Committee upon the Bill, if he had not been otherwise satisfied.

495. It was a matter of policy and not of fact?—So the Referees determined. The question we desired to raise was, whether the landowner's traffic could be carried as well over the substituted line as over the line which was intended to be abandoned. It seemed to me that it was a matter of fact, and we were prepared to set up better curves and better gradients, and so forth, upon the abandoned line.

496. Mr. *Hardy.*] I suppose that generally the same counsel is employed afterwards in the Committee upon the Bill as is employed before the Referees?—Almost uniformly.

497. With respect to the expense of briefs, there would be no additional expense if the same questions were inquired into by the Committee as were inquired into before the Referees; you would have to prepare your briefs upon all the subjects?—Yes.

498. But, as I understand, the questions of engineering and estimates were never enquired into, in previous years, to the same extent as they have been inquired into before the Referees in the present year?—That is the case, with certain exceptions.

499. Generally speaking, the briefs would not have a great deal in them upon those subjects?—I think not.

500. But, this year, has it been the habit to prepare elaborate briefs upon those subjects?—I think that this year elaborate briefs have been prepared, and questions raised upon those subjects which never would have been raised, if the Referees had not sat.

501. Have more objections been taken this year to *locus standi* than used generally to be taken in former years?—Yes; my notion is that experiments have been tried which ought never to have been tried at all.

502. There again the *locus standi* Court of Referees is a separate court from the Court of Referees upon the engineering and the estimates?—Yes.

 503. Therefore,

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503. Therefore, there would be an additional brief there?—There would be a brief concerning *locus standi*, a brief concerning engineering, and then a brief upon merits.

504. Has the same counsel been generally employed upon *locus standi* as has been employed before the Referees, upon engineering and estimate?—No, not necessarily. The same counsel has been employed who would at all events have been ultimately employed upon the Bill; but the leading counsel have usually declined to go in before the Referees upon engineering, with some exceptions; they have felt that it was incompatible with the duties which they owed to their clients generally to confine themselves to one particular case, but they have made an exception with regard to *locus standi;* that is a matter which is discussed in an hour, and they go in upon that when they will not go in upon the other questions before the Referees. Whether there has been a separate brief for that I do not know, but there must have been a separate attendance and a separate fee.

505. Mr. *Lowe.*] The fact is, that this tribunal of the Referees has made new work for itself?—I think that work has been created in consequence of the tribunal.

506. Which would not have been created if this tribunal had not existed?—I think so.

507. Do you think that the public or anybody has gained by that new work?—I think that the public have not gained by it, always bearing this in mind that I suppose the same heads to be applied to the determination of those questions as would have been applied to it, in the Committees upon the Bills. I am supposing that the same Chairmen who have been devoting their whole time to what is called the Court of Referees would have been Chairmen of Committees.

508. A quantity of investigation has taken place which never would have taken place but for this court?—That is really my opinion.

509. Is it your opinion that the public or the suitors before the court have gained by this investigation?—I think neither the suitors nor the public.

510. Mr. *Bonham-Carter.*] What do you mean by the "public;" do you mean that the lines have been in no degree improved by it, or that the public, who are interested in the rapid passages of these cases through the Houses of Parliament, have not gained in that respect?—The question which I understand to be put to me is this, has the existence of this new tribunal produced any effect, useful to the public; I say that I do not think that it has, because I think that all the questions which have been determined by the Referees might just as well have been heard, and would just as well have been investigated before the Committees, and that a number of questions which are not important, have been raised before the Referees, which never would have been raised before Committees.

511. Evidence has been given that on engineering details, and on the question of estimates, a closer investigation has been carried on through the Referees than has heretofore been the case, and that incidentally the scheme has been more closely sifted, and that in those respects there has been an advantage with regard to the gain of the public in the character of the line; am I to understand that you think that that investigation has not been a material advantage to the public?—Yes; I think that any investigation as to the engineering defects in a line, is, of course, advantageous to the public; I think that an investigation as to the sufficiency of the estimate is of some advantage to the public, but there is nothing in the fact of there being Referees which affects that investigation at all; it has become a mere fact incident to the establishment of Referees, that great companies, or that other opponents, have entered into investigations which, before Committees, they were not in the habit of entering into.

512. Is not that investigation, itself, ultimately beneficial to the public in the improvement upon those particular points of the line itself?—Perhaps so.

513. You have stated that an experiment has been tried; may it not be fairly assumed that the oppoments of Bills have gone in to the Referee Courts, and that a good deal of business has been taken there which may be reasonably supposed will hereafter be reduced?—I think so, or the business may considerably increase; if I have been successful in an experiment which I deemed desperate, I shall certainly try that experiment next Session.

514. *Chairman.*] Will you listen to these particulars and give an explanation of them, if you can. In the year 1863, 241 Bills were read a second time by the House of Commons, and on the 31st May, 52 of them were left undisposed of.

In

In 1864, 338 Bills were read a second time, and on the same day, namely, the 31st May, 81 were left undisposed of. In the present Session 419 Bills were read a second time, and of those only 53 were left undisposed of on the 31st May. Can you give any reason for that great diminution in the number of Bills remaining undisposed of?—Unless I know what the Bills were, it is impossible to say. It does lead me to this, which I rather think that my brethren also agree in, for I have talked to them upon these subjects, and they have been good enough to give me their advice upon them. I think that the mere fact of bringing both parties before the Referees has tended to stop or limit oppositions. When promoters and opponents come face to face, no matter upon what subject, the promoters do not feel quite so sure that they shall defeat their opponents, and the opponents feel a little more doubtful as to their success, and they very often come to an amicable conclusion. I cannot tell how or why, but when a man has had one contest, unless he is very combative, it disinclines him to enter into another.

515. Mr. *Milner Gibson.*] It is the first round?—Yes.

516. *Chairman.*] Taking that argument, the effect of the first round has been to punish him before the Referees, and he has not gone on with the second round before the Committee?—Yes; but I think that we have all come to the conclusion that more compromises have taken place this year than usual; and this year there have not been the great Bills that there have been in previous years.

517. Mr. *Ingham.*] Do you know how many cases there have been in which there has been opposition before the Referees, and upon the adverse opinion of the Referees to the scheme, it has been abandoned?—I know, in my own experience, of three such cases, and therefore no doubt the Referees have, in that sense, shortened the business, and I think that I have limited my evidence in that way. I said that upon particular Bills the expense has increased; but no doubt the general expense before Parliament has diminished, because, in consequence of the decision of the Referees, Bills have been withdrawn.

518. You think that the expensive litigation before Parliament is lessened?—I think that the sum, perhaps, is diminished; but certain particular Bills have been more costly.

519. *Chairman.*] Taking the figures which I have given you, supposing that the average of the business has been the same in the three Sessions of Parliament, there has been an enormous saving of time in the investigation of the business during the present Session?—Those figures are undeniable.

520. These figures prove that, from some cause or other, the Bills have been disposed of in this Session in an infinitely less time than they have been disposed of before?—There is no question of it.

521. You are aware of the enormous amount of time which is occupied in the investigation of Private Bills before Committees; have you any reason to believe that the business of the next Session will be less than the business of the present Session?—I cannot speculate at all upon it; some of my brethren say that they look forward to a great deal of business, others say that there is a rule which is invariable in their experience, that after two great Sessions there is a lull; and again, that when there is an election there is very little private business.

522. But supposing that the amount of private business was to be the same next Session as this, and with the addition of the business which must necessarily go before Election Committees, it would be a very serious matter to Members of the House of Commons?—No doubt of it.

523. Have you any idea what the number of Election Petitions was at the last general election?—No.

524. Supposing that the House has to provide 50 Committees for Election Petitions, in addition to the number of Committees which it will have to provide to discuss the private business, do you believe that that work can be gone through efficiently?—I am afraid not.

525. And you think, that if we have to look forward to the same amount of business, it does behove the House to look to some little improvement in the mode of conducting the private business?—Yes; some method of facilitating it.

526. Can you suggest any mode of expediting the private business of the House of Commons, any broad rules which you think might tend to expedite the business?—That is a large question. I entertain the opinion that Committees of

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three are more satisfactory than Committees of four. I have no great apprehension of Members falling ill; the Chairmen never fall ill. If the duty rested upon three Members I think that all three would be interested in the inquiry; and there is something in that mere physical circumstance attending a Committee of three instead of four, that the Chairman turns to the right and to the left, and has not to lean over to a Member beyond; but he gets his advice from each Member next to him, and he communicates his opinion. If the responsibility were given to three Members they would all feel themselves equally interested in the matter, and would all devote equal attention to it. As to falling ill, the chances of course are less, of one out of three falling ill, than of one out of four.

527. Supposing that such a case as this were to take place (and it has taken place this very morning), that a Member appointed to sit upon a Committee, regardless of that strict sense of duty which you have just described, found himself at the City of Cork, in Ireland, at the time when the Committee was called upon to sit, do you think that the inconvenience to the parties appearing before that Committee would not be materially aggravated by that circumstance, as compared with what it would be if the Committee consisted of more Members than three?—It does not very often happen that men are at Cork when they ought to be in London, but even if it were so, supposing that there are only three Members, and supposing that it is quite understood by Members of the House that the responsibility upon them is more serious than it has hitherto been, I believe that gentlemen would come to the Table when they ought to come. You do not find that there is any deficiency of Members on Election Committees; they sit on, and you do not find that Members are ill, though the inquiries are tedious enough.

528. Mr. *Bonham-Carter*.] I understand you to say that a tribunal of three would be very satisfactory?—That is my conviction.

529. We know that three judges sit with great satisfaction upon many occasions?—Yes.

530. But have you considered that in this case, certainly at the beginning of a Parliament, there are a great many Members of comparatively little experience, and that in order to do justice to the Members of the House the business must in some degree be apportioned, and that therefore if you confine the Committee to three you must occasionally have Members with very much less experience than is possessed by others?—I am quite content with that.

531. Are you prepared to say that a tribunal composed of three Members, some of whom had never sat upon a Committee before, would give the same amount of satisfaction as you might find in a Committee composed of a larger number?—I believe that the younger Members of Committees usually fulfil their duties quite as satisfactorily as older men. I do not mean to say that there should be three inexperienced men at the Table, but a young Member of a Committee, who has never been upon a Committee before, but devotes his mind to the case, and comes fresh to it, will be just as satisfactory (not two or three young ones) as perhaps a more experienced man. It all depends upon whether the Member is impartial, as from my constant experience the Members have been, and upon whether he is attentive, which, I think, there is a greater chance of his being when there are three than when there are five, assuming him, of course, to bring the fair average ability which one expects from a Member of Parliament.

532. You think that the risk of the personal element not being judicial amongst three, is not of sufficient importance to make a larger number desirable, where the inexperience of a particular Member would be diluted. You think that that consideration does not materially affect the constitution of the Committee?—I do not think that it does; I mean that an inefficient Member may be just (if I may so say) as troublesome being one of five, as being one of three, or very nearly so; he may impede the business by irrelevant questions; he may take notions into his head which he will persist in, and may impede a Committee of five just as much as a Committee of three. I believe that the thing depends, no doubt, greatly upon the influence of the Chairman; but greatly likewise upon the feeling of responsibility of the Members, and that feeling of responsibility, I think, would be greater in three than in four or five.

533. Mr. *Hardy*.] And it bears upon the saving of the time of Members of the House?—No doubt.

534. You think that a Committee of three will do the business as well as a Committee of five?—Just so.

535. Do you think it possible that any body of persons connected with the House could so sift the business as to choose out of it that which depended upon engineering and estimate, and matters not so much involving public policy, which portion might be referred to these fixed tribunals, not upon engineering and estimate alone, but that when they had got seizin of it they should decide it altogether?—Some such scheme as that has been suggested to me, and I have consulted my brethren about it; but our difficulty in selecting the Bills has been pretty nearly insuperable. It must be done pretty much with the consent of the parties, for it would be a very hard thing for promoters or for opponents to have their Bills treated by the House in a different way from other Bills. The promoters and opponents expect their Bills to be treated in the ordinary way; but for any officers of the House to say, "This Bill shall not be treated in that way, but shall be treated by a different tribunal," might be a hardship, and I do not exactly see the method of selection. I think that, supposing the Referees are to be continued, their functions might be enlarged, and that the things which I have mentioned might be confided to them, and that they would come to most satisfactory conclusions concerning them; but to pick out particular Bills for their sole consideration seems to me very difficult.

536. But if the sort of questions which I understand you to suggest should be added to their jurisdiction, would they not be practically deciding upon the whole Bill?—I think that, sometimes, very little would remain; and that what did remain would be arranged between the parties without the intervention of a Committee.

537. Then, do you not think that it is a far better thing, when you have given a tribunal so much to do as to take out of the Bill almost all that is material, to let them finish it, instead of referring to another tribunal the very small matters remaining to be considered?—You have supposed cases with only the additional subjects of inquiry which I have mentioned, together with the things which the Standing Orders suggest. If I could determine that there were such Bills, I would willingly put them into the hands of the Referees alone, or whatever the body may be. But there are other things which may be involved in the Bill; for instance, bargains with other companies, and competition, and various questions which come before Committees.

538. Let me take the question of bargains with other companies, which is a fixed thing, depending upon legal documents, would it not be far better to refer that question to a fixed tribunal which was accustomed to determine such matters than to send it to any Committee selected at haphazard?—These bargains are usually not so definite that one party or the other will not question the effect of the bargain upon the particular object proposed in the Bill: it is always a matter of controversy.

539. Upon that very question, would it not be better to refer such a question to a fixed tribunal rather than to a varying one?—I am not much for fixed tribunals upon these questions, and for this reason: it has always been objected to Committees of both Houses, that they are fluctuating bodies, and that one body tries the question in one year, and another in the next year. I look upon that as a very great advantage. I believe that a fixed tribunal will have fixed opinions, and even Members of the House of Commons are not without fixed prejudices; and there are always in the railway world some particular questions which prevail more or less. There was the question of the gauges; there is the question of running powers, of competition, and so on. If you have a fixed tribunal, we, who represent the suitors, will know that a particular Member presides over it, and that we have not a chance. I much prefer the present constitution of Committees, when we do not know precisely before whom we shall go, and must be prepared for any emergency; we get up our case better, and we do not look upon our case as desperate, because it has to be tried by a particular individual.

540. As I understand you, you would wish to refer to the Referees all questions which may not be legislative questions?—Quite so.

541. Supposing that we were to give to the Referee tribunal all which was not legislative, would that meet the view to which you incline?—I think that it would; but I find great difficulty in defining strictly what is legislative.

542. Mr. *Milner Gibson.*] If it is not legislative, may it not be reduced to

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law, in the form of clauses in a General Act of Parliament; you do not want a tribunal if no law is to be formed upon the question; if you have only to administer certain things, cannot you reduce them into the form of a general law?—Quite so.

543. Mr. *Ingham.*] Could not something be gained as to dispatch, and also could not the difficulties as to counsel be obviated if you had a fixed tribunal, and if they commenced this work before the meeting of Parliament, after all the documents had been deposited?—There is not much interval now; the Bill is deposited upon the 23d December.

544. That gives a month?—Yes. Then the opponents must see what is in the Bill, and must prepare their petitions; and we find that it is rather hard upon landowners already, and that they are very much pressed as it is, and therefore some of their petitions have been rather more vague than they otherwise would have been. Perhaps I may mention one matter with respect to *locus standi.* I think that Mr. Phinn stated, and I believe that we are all of opinion that it would be a very great advantage both to the petitioners to, and the promoters, if the Referees would state their reasons for either refusing or granting a *locus standi.* About that none of us have the least doubt. The agents are the persons upon whom the responsibility principally rests of advising concerning the right to be heard; and we all hoped that so soon as this matter was referred to the Referees, we should be able to have something like a code, and something like principles defined, but we have been disappointed in that respect.

545. *Chairman.*] The code of the Courts of Justice in Westminster Hall has taken centuries to establish; do you think that it is reasonable to expect the Referees to establish a code, they having been so recently appointed?—It would be very unreasonable. All I ask is that we shall be able to deduce rules from their decisions; but, inasmuch as the claims to be heard are multifarious, and the objections to those claims are also multifarious, if the Referees only say, "The claim is allowed," or "disallowed," we have nothing to guide us.

546. But that is necessarily an operation of time; would it not be difficult for the Referees on their first establishment to be able to lay down a code of rules?—I do not desire that they should; all I desire is, that upon the particular case, they should state the motives of their decision; their decisions are otherwise useless as a guide.

547. Mr. *Milner Gibson.*] How do you proceed with regard to your evidence before the Referees; are minutes made of the evidence?—Yes.

548. Do you circulate copies of all that evidence to the parties on both sides?—We habitually print the evidence before the Referees.

549. You have had some relief, have you not, in the new system of printing the Minutes of Evidence?—No doubt it is a very great convenience.

550. Is it a relief in a pecuniary point of view; is not your solicitor's bill very much reduced by the new system?—I take for granted that it is; I do not know as to that: it is not in my department at all to see those bills. We English agents have nothing to do with the copies of the evidence.

551. There has been a relaxation on the part of the Bar in the professional rule which used to be insisted on, as to the minimum of fees which a counsel might take?—Yes.

552. Has any relief, in a pecuniary sense, followed that relaxation?—I really do not know; I think that the usual fee, in my experience, is always paid. I have heard rumours that smaller fees are received; but I do not think that the receipt of smaller fees is published much abroad.

553. You do not know whether, in fact, parties have availed themselves of the privilege which has been given?—I have heard that they have availed themselves of it, but I do not know any cases in which they have.

554. It would not come very much within your knowledge?—No.

555. *Chairman.*] The retaining of counsel is with the Solicitor, and not with the Parliamentary Agent?—Yes.

Lunæ, 12° *die Junii*, 1865.

MEMBERS PRESENT.

Mr. Bonham-Carter.	Mr. Ingham.
Lord Robert Cecil.	Colonel Wilson Patten.
Mr. Ennis.	Lord Stanley.
Mr. Milner Gibson.	Sir John Shelley.

COLONEL WILSON PATTEN, IN THE CHAIR.

Thomas Coates, Esq., called in, and further Examined.

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556. ON your last examination you were asked whether you could put in writing a compendium of your suggestions for the future government of the Court of Referees, in case it should be decided to be continued?—I was.

557. Does the Paper which you have in your hand contain your suggestions?—It does.

558. Will you deliver it in?—

[*The Witness delivered in the same, which is as follows:*]

SUGGESTIONS AS TO REFEREES.

1. LET the inquiry apply not only to the intrinsic qualities of the works, and the efficiency of those works for their purpose, but also to the effect of the works on neighbouring property: *e. g.*, on roads, on access to farms or mansions, on the working of railways with which junctions are formed.

2. Let the Referees inquire into alternative works, provided that a plan of them has, ten days before the inquiry been sent to the Promoters, or that they are sufficiently described in the Petition against the Bill.

3. As to Gas Bills and Water Bills, let the whole inquiry be confided to the Referees; even the inquiry into competing schemes.—(*See* Suggestion 9.)

4. If all parties consent, any Bill, with concurrence of Referees, might be absolutely determined by Referees.

5. If an objection of Petitioners can be overcome by an amendment or clause in the Bill consistently with Standing Orders, to which amendment or clause the promoters assent, let the Referees (if they think fit) admit and settle that amendment or clause, which shall then be deemed an essential part of the Bill.

6. If the opponents have by their petition, or by their counsel or agents, defined to the satisfaction of the Referees the nature and limits of their objections, then let the Witnesses of the Promoters be called first.

7. Let more notice be given of the Bills that are to be taken; and let the Bills (if possible) be so classified as that a number of comparatively unimportant inquiries may not be placed on the list of the day, after a Bill involving a long inquiry.

8. Let the Referees, in determining on the claim of Petitioners to be heard, state their reasons for allowing or refusing the claim; and if all the other functions of the Referees cease, let this remain.

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9. If it should be deemed that Water Bills and Gas Bills (*see* Suggestion 3) ought not to be conclusively dealt with excepting by Committees of the House, then, instead of the very questionable name of "Court of Referees," let two "Permanent Committees" be appointed for dealing with those Bills as now is practically done in dealing with Turnpike-road Bills.

10. Above all; let no change be made in the constitution of these tribunals which shall deprive them of the weight derived from their being mainly formed of Members of the House; and deprive the suitor, whether Petitioner for the Bill or Petitioner against the Bill, of the security afforded to him by the right of having any grievance which he supposes himself to have sustained at their hands, discussed by the House, in the presence of those whose doings he impugns.

12 June 1865. *Thomas Coates.*

John Duke Coleridge, Esq., Q.C. called in; and Examined.

J. D. Coleridge, Esq., Q.C.

559. *Chairman.*] I BELIEVE that you have been practising before the Court of Referees, and before Committees of this House during the present and former Sessions?—I ought to say, before I give any evidence, that I really am ill-instructed in the matter, because, although for the last two or three years I have had a good deal to do before Parliamentary Committees, I am not a regular Parliamentary counsel, and of course I have not the peculiar knowledge which gentlemen devoting more exclusively their time and attention to such cases have, but any opinion which I can offer for what it is worth, of course I shall be very glad to give.

560. You had practised before the Committees, before the establishment of the Court of Referees?—I had.

561. And you have been before the Court of Referees on more than one occasion during the present Session?—I have.

562. Have you had an opportunity of judging what the effect of that Court has been in the conduct of private business in the House of Commons?—I have formed an opinion upon such materials as have been before me, of course.

563. The objects of the establishment of that Court were three; first, the saving of the time of Members of the House; secondly, the expedition of business; and thirdly, the saving of expense; can you give us any opinion what the effect of the Court has been under those three heads?—It strikes me in this way that the theory of it, if regarded as a matter of theory, is at first sight, and perhaps altogether indefensible, because it seems to a lawyer to be an indefensible thing that the tribunal which finally has to decide upon the whole matter should be bound by the certificate of any other tribunal which has had only a portion of the matter submitted to it; and it has occurred to me that it is something like, in a criminal case, for example, submitting to a number of experts, any medical or chemical question which might arise in the course of it. There would be, technically, a good deal of difficulty in afterwards binding a jury by the certificate of the persons who had heard evidence which was not before the jury, and upon which they had to act, and I should think that in some cases (I will take for example a case with which I had nothing to do, and which, therefore, I only speak of from conversation with other persons, namely, the Great Severn Bridge case) there has been a good deal of waste of time and expense. As I understand it, in the Severn Bridge case, the Referees reported in substance (and nobody finds any fault with them) that there was a great deal of evidence to show that the navigation of the Severn would be impeded to a certain extent, and that it was for the Committee at last to judge whether or not the balance of convenience was in favour of shortening the communication by throwing a great bridge over the river, or slightly impeding the navigation of the Severn by putting piers in the middle of the bed of the Severn. That is an instance in which I should think it is probable that a great deal of time has been consumed and money spent, which, under the old system, would have been saved, because a large question was gone into before the Referees, which they were obliged to hear, and upon which they were obliged to form and express some sort of opinion, which, after all, could not bind, and did not bind the Committee, which had at last to decide the question. But although it may be so in particular cases, and, I believe, was so in that case, my opinion, so far as I have been competent to

form

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form it, is that the practice of the Referees has, in the present Session, worked exceedingly well; and, practising before other tribunals, I hope that I speak with proper respect of them when I say that I think it excessively important that questions such as those which are submitted to Parliamentary Committees should be retained in the hands of Parliamentary Committees. My own experience is, if I may venture to say so, that Parliamentary Committees, for the most part, decide such questions much more fairly, and much better, than any merely legal tribunal would decide them; and I think that most lawyers accustomed to the work of law courts would say that such questions as Parliamentary Committees have to decide are much better decided by people who are not exclusively lawyers. Starting with that, it seems to me, that the Parliamentary business had got into such a condition, that unless some system was devised to expedite matters, and to save the consumption of time, the system must have broken down; it could not possibly have gone on as things were; and if the Parliamentary business enlarged, the House of Commons would, if I may use such an expression, have been obliged to strike work; it could not have done the work. That being so, it seems to me to have been a very wise suggestion, if I may say so, to separate parts of the inquiry before Parliamentary Committees, which, although possibly not separable in strict theory, are found in practice to be separable; questions of *locus standi*, and questions of engineering and estimate, and to refer them to some tribunal other than a purely Parliamentary one. And, as far as I am capable of judging, the Referees, in the present Session of Parliament, have saved a great deal of time, and have saved considerable expense. They have saved time, as it seems to me, not so much in the cases which have after all gone to Committees, because in cases which do at last go, and ought to go, before a Parliamentary Committee, there is no doubt that "it is a very difficult thing to prevent the same things, to some extent, being gone over twice. Of course, in that respect, money would have been saved, and time, which is money, would have been saved, if the Referees had not been established. But the Referees stop a great many Bills which ought to be stopped, and they stop them much sooner than a Committee would stop them or could stop them, and thereby they save in the end an immense deal of time, and also, I believe, a great deal of money, in my opinion, in two ways. Of course, when they actually stop a Bill they save money in that way, because time is money, and if they save time they save money; but, in my opinion, they save a great deal of money indirectly. Everyone who knows anything about Committees knows that very often the first day, or the first meeting before a Committee, brings persons together who have never before really had any distinct notion of what was intended, and very often concessions are made, difficulties are explained, and real meanings come out which lead to settlements, and that again is a great saving of time and money. It is, of course, a very much less saving of money if the whole apparatus of a Parliamentary Committee has first to be gone through; if all the witnesses are to be up, and if all the Counsel are to be advised and instructed, a very large portion of the expense has been incurred on the first day before a Committee. An opportunity of that kind is given before the Referees; the parties meet, and the parties come to an understanding of one another's real objections. The promoters' objects are definitely understood; the objectors' objections are definite and complete, and, to my knowledge, in many cases that has led to very satisfactory settlements at, of course, a great saving of time and money. I do not know that, generally speaking, I have much more to say upon the subject, excepting that, as far as I can judge, the questions of *locus standi* may be as fitly given to the Referees as to any other tribunal. Speaking, as I hope you will see I have tried to speak, with great respect, and yet with perfect frankness, I should say that the decisions upon the right of a party to appear are, probably, the most unsatisfactory of the decisions of Parliamentary Committees; and I cannot say that the decisions of the Referees, as far as I can judge of them, have been very much more satisfactory; but perhaps that is inherent in the nature of the case. It is very often difficult to say whether a person has a *locus standi* till you have heard the case. The decisions upon *locus standi* are very often such that possibly the Committees themselves would be very glad to reverse them a day or two after they have been given; but that is, perhaps, inherent in the very nature of the case itself; and I do not know that the Referees are worse than the Parliamentary Committees in that respect.

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564. Lord *Stanley.*] Upon the point of *locus standi*, does not it, in your experience, very often happen that in a doubtful case a Parliamentary Committee will let in an opponent, because they are perfectly well aware that if they shut him out he will raise his case before them by some other means, and that, therefore, no time will be saved?—I dare say that that is so.

565. *Chairman.*] Is it not a great advantage to suitors before Parliamentary Courts that they should have some definite idea of the rules on which the decisions are given upon *locus standi*?—Yes; I should very much like anybody to draw up such a code.

566. Is there not a much better chance of coming to more uniform decisions by a court constituted as the Referees are, than by the varying court of Parliamentary Committees, which are different in each case?—That is so, no doubt, but a *locus standi* is a very difficult question. I always desire to speak with reserve, because I have not the experience which other people have, but it seems to me very difficult to get a tribunal which shall be absolutely satisfactory, because you constantly have to decide the question whether a man shall be heard without really knowing what the course of the proceedings will be, and you are therefore obliged to decide upon imperfect materials. I have myself seen cases in which I am perfectly satisfied that the Committee themselves afterwards regretted that they had both excluded and admitted opponents. There is one other point which I should mention; I should think that the Referees will have to consider a good deal the rule which they have laid down as to having a single counsel. Perhaps I may venture to say, because I had one very heavy case to conduct which I accepted upon particular terms, that if a man is much engaged, and has a great deal to do, of course he can only attend upon terms which are really no saving of money at all, because a man in a certain position cannot undertake for ten guineas a day to attend from morning till night, and therefore, in truth, if you are to have the assistance of persons who are thought worth having, I do not believe that the hearing of one counsel alone is practically much saving of money.

567. You would not limit the choice of counsel before the Referees in any way?—I think not; all I can say is, that in my own case I undertook to attend, and, as I say, I undertook to attend upon terms which I think would have been no saving to the parties.

568. Can you give us any opinion upon the practice of the Court of Referees with regard to the *onus probandi* lying upon the objectors in the first instance, as a general rule?—I think that it is greatly in favour of promoters.

569. But as regards the dispatch of business, is it favourable?—I would rather not answer that question, because I have never thought about it, and I have thought about the other question. It seems to me a very great advantage to promoters; indeed, I apprehend that it certainly so works, because they are able to answer objections. It has certainly led, in cases within my own knowledge, to questions of estimate and questions of engineering being really not at all settled till the objections were known, which ought not to be. I think that it works in that way, and it is rather contrary to our notions that a man who wants to do something should not state, first of all, what it is that he wants to do.

570. But seeing that all the parties coming before Parliament are obliged to deposit plans correctly got up, and to define the nature of their works, and to show how those plans affect all parties, do not you think that that is a *prima facie* case on the part of the promoters?—I suppose that, in form, it is so.

571. A Bill which is not opposed is accepted by Parliament on the terms that the rules of Parliament have been complied with, that the plans have been deposited, and all the Standing Orders complied with; and that is so far a *prima facie* case, if not another word is asked upon it in any stage through which it goes?—If you ask only as to a *bonâ fide* scheme, and one which ought to be carried, and to which there is no real objection, no doubt what you say is perfectly true, but Parliament has to deal with so many schemes which are not *bonâ fide*, and which never ought to become law, that I should have thought that in a great many cases, at any rate, it would have been very much better to have made the persons promoting them first give some good reason why they should become law.

572. You

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572. You say that you think that the practice cannot be justified in theory of dividing the subject of inquiry, but in the courts of law are there not examples of the same course having been pursued; for instance, in the Court of Chancery, is it not the custom to send to the courts below a case to be inquired into, and does not the Court of Chancery deliver its judgment finally upon the report of the trial in the court below?—That is so, certainly: but I should say that when an issue is directed from the Court of Chancery, and the Court of Chancery has to act upon the finding of a jury, it is one of two things; it is either practically conclusive of the whole case in Chancery, as for example, a finding of the validity, or the invalidity of a will, upon which the decree of the Court of Chancery would follow almost as a matter of course, or it is only one element in a large inquiry. But the Court of Chancery till lately, until Parliament empowered it to summon juries, had no power of investigating the matter itself, if there was a really disputed question of fact, the Court of Chancery until quite lately, had no means of investigating it; and it was not that it sent the question to a court of law, so much from a desire to separate its functions, but because it had no other course to pursue, inasmuch as the Court of Chancery as a general rule, can only administer equities upon an admitted state of facts, and if the facts are disputed, until quite recently, the Court of Chancery had no alternative but to send them to the only tribunal known, namely, an issue directed to a jury to ascertain how the fact was.

573. Is not the theory of the Court of Referees, that their inquiry is into a question of fact, namely, that they shall see that the engineering and all the details are correct, before the Committee takes upon itself the legislative duties?—Yes, but I think that the matter is very difficult where the result is not one simply of dry facts; but where it is one of policy, which is made up of a number of complicated considerations, it seems to me there to be more difficult to separate them. In the case which I have mentioned, it was very difficult to say what was pure engineering and what was merits.

574. Do you think that any advantage would be gained by lengthening the daily inquiry before Committees?—Speaking for myself, I think that the hours are quite long enough. I mean for people who have anything to do. Judges in their own courts are sometimes tempted to sit later, thinking to expedite business thereby. They forget that the parties have to begin their work when they go away. It is very well for a judge to sit till seven or eight o'clock, and then go home to dinner; but a counsel has to get up his case for the next day, and to do a great deal of work, and cannot go home to dinner.

575. If it was shown to you that the average sittings of Committees of the House of Commons during the Session were only three and-a-half hours, should you say that that was a reasonable time for an inquiry of such enormous importance and such enormous cost?—Speaking theoretically, I should say, most certainly not; but I would rather not give a practical opinion upon the matter, because I have not had sufficient experience, and have not had enough to do before Parliament to know how far men who are given up to Parliamentary business alone could really do their work satisfactorily with longer sittings. The Committee should call persons in a different position from what I am in to give an opinion upon that point.

576. But, upon the whole, your opinion is that the system of Referees, during the present Session, has worked favourably?—I think so, for the reasons which I have given: and I desire to conclude as I began, with the reservation that I have only very imperfect information to give you.

577. Lord *Stanley*.] Do you think that the distinction is sufficiently clear between the matters which are to be dealt with by the Referees, and the matters which are to be left to the Committee?—On paper, quite sufficiently clear; but the difficulty is always in applying these things. It is very easy to lay down a rule. "Engineering and estimates" seems at first a sufficiently clear distinction; but reverting again to the case which I have mentioned, because it is a leading case and a great one, which of course represents many similar cases, I must confess that if I were a Referee I should find it difficult exactly to say what was the limit of my jurisdiction in such an inquiry.

578. Take such a case as this; a Committee after a Bill has passed the Referees, requires some deviation to be made from the actual line, requires to have a tunnel instead of an open cutting, in order to avoid damage to some ad-

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joining property, does not that alter the estimates?—I should think that it must do so; but I should say that that is inevitable to the practice of a preliminary inquiry upon an isolated part of the whole question. If the ultimate tribunal is the dominant tribunal, and has the right at last of saying what shall or shall not be done, of course the Committee of the House must bind itself by the Standing Order, which does not allow it to depart from what has been done by the Referees; and if the Referees object to the measure upon the state of facts before them, the Committee may say, "We will not allow you to alter those facts."

579. In fact, has there been within your knowledge any difference of understanding between the Referees and the Committee?—There have been one or two cases, of which your Lordships must be aware, in which there was a difficulty in understanding exactly what the Referees meant, and in which the House of Commons, I believe, were inclined to send a case to a Committee, which, apparently, the Referees did not wish to go there; but that is incident to every tribunal of this kind; you cannot expect that all the reports will be satisfactory, or all of them perfectly clear.

580. It was very much feared, when the system was established, that the Committees would find themselves insensibly drawn, as it were, into trying over again questions decided by the Referees, do you think that that has arisen?—I do not think so at all, so far as my experience goes, except in cases where, from the nature of the case, it has been so difficult to say whether it is engineering or merits, and where necessarily some portion of the same ground has been traversed. But I think that the Committees have shown a laudable desire to keep clear of anything which has been before the Referees; they have always stopped us whenever there was any attempt to try over again what was settled by the Referees.

581. As to the saving of time, I apprehend that there is no difference of opinion that the saving of time is considerable?—That is my own opinion, and the opinion of many persons with whom I have spoken. I cannot say that there is no difference of opinion.

582. *Chairman.*] But your opinion is that there has been a considerable saving in consequence of the establishment of that Court?—I think so; for the reasons which I have given.

583. Mr. *Bonham-Carter.*] In those cases in which the decisions of the Referees has left to the Committee a question of policy based upon fact for their consideration, is it your opinion that by arriving at their conclusion the Referees have eliminated a good deal which might have occupied the time of the Committee; I understand you to say that, in some cases the decision of the Referees has not been definite, and that they have left questions of policy based upon facts for the decision of the Committee?—Yes.

584. Even on arriving at that state of facts which still leaves a balance to the Committee, have not the Referees probably in the course of their inquiry eliminated a great deal from the consideration of the Committee which would otherwise have taken up their time?—It is very difficult upon a practical matter to answer a general question. I should have thought not, because when the Referees report vaguely, the whole matter, or nearly the whole matter, is gone over again.

585. In the case of the Severn Bridge, was not the result to direct the attention of the Committee to a much narrower issue, and a narrower point, than if they had gone into the whole case?—I had nothing to do with that case. I only speak from conversation with other people. I can quite conceive that it may have been so, but I do not know that it was.

586. From your observation of the proceedings of the Referees, is it not reasonable to suppose that in subsequent Sessions the practice will become more defined, and that the advantages which are now apparent will be increased?—I should think that there is no doubt that in this, as in every case, a settled tribunal has its definite rules, which are understood, and the practice becomes more uniform and more generally understood, and the better understood the rules become, the less is the work. Every new court is judged at a disadvantage five or six months after its institution.

Hunter Rodwell, Esq., Q.C., called in; and Examined.

H. Rodwell, Esq., Q.C.

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587. *Chairman.*] YOU have had considerable experience before the Committees of this House, and before the Court of Referees?—I have. Since 1853, I think I may say that I have had a good deal to do regularly every Session.

588. I believe that during the present Session you have had a great deal of practice before the Court of Referees?—Before the Committees were sitting so numerously, say for the first three weeks, I was there constantly.

589. Will you give the Committee your opinion as to the working of that Court during the present Session, and what has been the effect of it as regards the object?—If the object was to save time, I think there is no doubt that it has succeeded in that respect; if it was to save expense, it ought to have succeeded. There have been exceptional cases in which large fees have been given to one counsel; but referring to the ordinary practice, the expenses certainly ought to have been less before the Referees than before the Committees, and therefore I think that it is the fault of the parties if the expenses have not been diminished. With regard to the labours of the Committees of this House, I can say most decidedly that their labours have been very much curtailed by the proceedings before the Referees; and upon the whole, taking the time employed before the Referees and the time employed before Committees, I should say certainly that each Bill has occupied less time than it would have done under the ordinary system.

590. But you have no doubt that, as regards the Committees themselves, there has been a large saving of time?—No one can doubt it, for it is impossible to doubt it. I can speak from my own personal knowledge. It is a fact which I think that no one would question at all; that in the case of every Bill brought before a Committee the time has been considerably shortened by the inquiries which had previously taken place, and it could not fail to be so.

591. Do you think that there has been any diminution in the efficiency of the inquiry, by its being divided between the two Courts?—None at all. I am not myself aware of any injustice having been in the slightest degree done to any of the parties, either the promoters or the petitioners, by the course which has been adopted; and I think that promoters have very much benefited, more especially by the questions of *locus standi* having been determined so soon as they now are, which must have saved an enormous sum of money.

592. Have you been engaged in any of the cases which have been alluded to in the previous evidence, in which it is stated that additional expense has been incurred; were you, for instance, engaged in the Runcorn Water case?—No; and I may say that I have only come to town this morning, and that I have not seen any of the evidence which has been printed. I give my evidence without having heard any of the previously expressed opinions, and I would rather do so. I was not in those water cases. I have heard the circumstances of one or two of them, but I am not prepared to give any opinion upon those particular cases. But with regard to one matter, which arises to a certain extent, namely, the question of navigation, I think that a little more precision might be introduced into the questions to be decided before the Referees, which would prevent any collision between the Committees and the Referees; that is to say, how far the construction of a bridge would interfere with the navigation. That is a question upon which some difficulty has arisen.

593. The case of the Severn Bridge has been put by several witnesses to us, as an exemplification of the defects of the system?—I cannot give any information myself upon that particular case, though I have heard it talked of.

594. You have not directed your attention to the Report of the Referees upon that case?—No; but I think that it would be very desirable to get the points, which are raised before the Referees, kept very distinct from the points which go before Committees; and I think that that might be effected if it was not contrary to the Orders of the House, or unless there were any serious objections, by having two forms of petitions; a petition raising the questions before the Referees, and afterwards a petition, so to speak, upon the merits to go before the Committee, who would then entirely have withdrawn from them those points which are specially the points for the consideration of the Referees. And I think,

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that after the experience of the last three months, parties could have no difficulty in precisely defining where the jurisdiction of each should begin, and terminate.

595. Do you think that much advantage has been gained by the daily inquiry before the Referees being lengthened?—No doubt of it; the sittings of the Referees have been much longer, and of course when you pursue an inquiry of that kind, it is much more effective than when you have to begin *de novo*, on the following morning.

596. You think that the good resulting from it is greater than the proportion between the sitting of the Referees and the sitting of the Committee?—I think so, certainly.

597. From its continuance?—Yes.

598. From your experience, what is the average sitting of the Committees of the House?—It is barely four hours.

599. On the average, do you think that you get to work much under a quarter of an hour from the time appointed for meeting?—No; but on Wednesdays the Committees frequently sit till five, and some Committees have sat this year till half-past six, so that there is a good deal of time to be added; and then the Committees constantly, at the end of the Session, apply for leave to sit longer. I do not think that there is much in that. I know that some Chairmen are very particular and commence directly, and I do not think that five minutes are lost. Then again, Committees sometimes meet at half past 11; therefore, I do not think that anything is lost.

600. What has been the average sitting of the Referees when you have attended?—It is very difficult to say; they have certainly averaged more than an hour beyond the sitting of the Committees, and I should say an hour and a half more than the Committees; they have sometimes sat very late.

601. Mr. *Ingham.*] They begin at 11?—Yes, and they sometimes sit very late; they sit more like the Committees do in the House of Lords; they sit from 11 to 5 very often.

602. *Chairman.*] Have you any alterations to suggest in the practice of the Referees, supposing that it is decided that the Court of Referees shall continue?—I think that I should be for giving them rather more power than they have at present. I think that there are matters which they are competent to deal with; I say it with all respect to the House, but being an established Court, as it were, I think that uniformity of practice would be secured, and that it would be desirable to bring all the cases of the same description before the same tribunal, if you could. I think that there are questions which have arisen this year with reference to deposits and subscription contracts which might be very well disposed of before the Referees, and not be brought before the Committee to give unsatisfactory decisions, for they have given very different decisions this Session upon the point of deposits. Sometimes, witnesses have been allowed to be examined and the question to be gone into, and sometimes not; that has happened to myself, I believe, in two cases, and I think that the more you could extend that power to matters of a similar nature, the more desirable it would be. With regard to questions of clauses, a Committee is, of course, competent to form an opinion as to the equity and justice of a landowner's case, and the case of an opponent of a Bill. I think that these questions ought to be sent before the Committee; they ought, in my opinion, to deal with questions of merit (not matters of practice and form), which cannot be sent before the Referees. As to *locus standi* questions, there can be but one opinion upon that subject, and you will also recollect that, for a future Session, if the old practice still goes on, what has been done this year will be a guide to parties as to petitioning; they will know how the law has been settled, and they will say that they will not petition or that they will; whereas, in former years, it was a matter of speculation whether one would get a hearing or not. You can now advise a client whether he has a *locus* or not.

603. An objection has been taken by several witnesses to the confusion which exists as to the limits of the inquiry?—That is one objection which, I think, may fairly have arisen in this the first year, but I think that it might be obviated by having the points raised in the petition, and if the point is once decided by the Referees there should be an end of it, and it ought not to be brought again before the

the Committee. An Honourable Member will recollect one case which, perhaps, will illustrate the difficulty which has been laid before you; it is a junction case; there is a question whether a junction is objectionable in an engineering point of view, and also whether it is objectionable in a working point of view. You may have the most perfect junction that was ever made, which will present no engineering defect, but as to the working, if there are special trains such as tidal trains, it may be very objectionable. The Referees would decide the engineering question, and the Committees have gone into the working question. There certainly is a little conflict as it strikes me; and I think that if the Referees would determine the working question, I would not allow the Committees to go into it at all, those are the only cases in which I have seen any conflict or any difficulty, and that I think was one of the very first cases. I refer to the Hadlow Railway Bill. I think that it was in the second or third group which sat, and that it was not quite clear what took place. There is always this to be said that if Committees choose they may refer back any question to the Referees for their opinion, and therefore I do not see that there need be any conflict. Of course there may be if the Committees do not wish to do so, but the Committees this year have acted almost entirely with a view to follow out the opinions of the Referees, so far as I have been able to judge and have paid every attention to their Reports. There is one other suggestion which I perhaps may be allowed to make. It seems to me that the usefulness of this tribunal has been impaired a good deal by not being able to accelerate the work in time. I do not see what sound objection there could be to the Referees meeting three weeks, or a month before the Committees begin their sittings; if so, there would be plenty of time before the Committees commenced. That has led to a little delay this year, and I think a little extra expense. I do not see why the points which are raised before the Referees should not be taken before the second reading. The petitioners very well know after the Standing Orders have been gone through, what points of form are to be raised, and those points might be legitimately raised before the second reading.

604. Lord *Stanley*.] Then, when do you propose that the Bill should come before the Referees?—After the first reading. I think that the Referees should be then set to work and probably the business could be done, because the whole of the points to be raised before the Committees would have been discussed upon Standing Orders.

605. It sometimes, though very rarely, happens that a Bill is thrown out upon the second reading, and then the Referees would have had their trouble for nothing?—That is true, but unless it is a very large case, or there is some special circumstance, the Bill is read a second time; it is a special exception to the rule that a Bill is not read a second time. If you gave the Referees three weeks' or a month's start, there would be no delay. Some delay arose this year, but that was because the Referees only sat a few days before the Committees sat.

606. Mr. *Milner Gibson*.] You would still leave the entire responsibility with the Committee of either sanctioning or throwing out the Preamble of the Bill?—Certainly; and also, which I think is, perhaps, equally important, whether the Bill shall give the promoters a right to deal with the public interests. No tribunal can deal more thoroughly and properly with questions of that sort than a Committee of the House of Commons, composed as it is.

607. If you think that the Committee should have the entire responsibility of either granting or withholding the powers which are asked for, would you deny to them, if they so thought of it, the power to make inquiries upon any facts which they might deem necessary in order to enable them to come to a just decision?—I think that if you were to make the Referees a subordinate court, and if you were to lay down that the Committee were to be a court of appeal, as it were, from the Referees, as you put it, it would very much diminish their authority and their responsibility.

608. What I mean is this, that although in ordinary cases, railway cases such as are now presented to Parliament, the Committees might, as a general rule, be guided by the Referees upon certain facts, and take them as conclusive; there might be cases of new undertakings of difficulty and importance, in which the Committee might wish, in order to feel itself secure in doing the best which it could for itself in arriving at a sound decision, to investigate facts for itself, seeing

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that it has the responsibility?—I quite go with you, if, as you put it, there is any new matter, or if any fresh circumstances arise in the course of the inquiry.

609. Supposing the case of a new undertaking, we will say a pneumatic railway, which might involve things which we could not exactly foresee, would it be right, seeing that you vest the responsibility of sanctioning or refusing the powers asked in the Committee, to deny to that Committee the power of investigating such facts as they think necessary for their conclusion?—I think that that rather ought to be a matter for the whole House than for the Committee themselves. I think that it ought to be dealt with upon a motion in some way, and that it should be an exception to the general rule; it ought not, in my opinion, to be done by the Committee's own motion, but by the constituted authority of the House of Parliament itself, if there are any special circumstances. But I am myself very much impressed with the view of giving the Referees full authority upon all matters brought before them, and not interfering with their views or their decisions, because it appears to me that if you do, you directly diminish their responsibility.

610. From the practice before the Referees, as far as it has gone, do you think that matters have been investigated with great care, which would not have been considered very material by the Committees, and would, probably, not have been gone into with so much detail?—I think that they have been better considered before the Referees. I think that the attention of the Referees has been solely directed to the engineering point, or to the point of estimate; and no one can have read their reports without seeing how carefully and elaborately they have gone into those points. I do not think that they have bestowed more attention than Members, or, at all events, Chairmen of Committees; but I think that the thing has been better considered, and that the question has been more gone into, from the fact of its being divested of other considerations.

611. Do you think that it has been usefully gone into to that extent?—Three or four Bills have been stopped this year upon questions of estimate and of engineering which, perhaps, would have gone on for a week or ten days before Committees, and therefore, inasmuch as the Bill was disposed of by the Referees, I think that it has been beneficial, both to the promoters, and also to the opponents, and has been a saving of expense. The only persons who suffered were agents and counsel.

612. Mr. *Ingham.*] You have stated that you think it better that the petitioners should separate their grounds of opposition into two petitions; one before the Referees, and one before the Committee?—Yes; I think that the petition before the Referees should raise specially the grounds of engineering and estimate, if they are objected to; and that those matters should go before the Referees. There is now a general petition on the whole matter, which is merely endorsed, "Estimate," and so on. It is sometimes rather difficult to give the precise allegation in a petition upon which the party relies; and perhaps the rule which the Referees would adopt would be that there should be a distinctness and a precision in the point raised, and that it should not be left in the general terms in which it has been left this year by the ordinary form of petition.

613. Supposing that the objection was simply an engineering objection, and that it was suggested that there might be some means of avoiding the objection by some change in the deposited plans, do you think that it would be prudent to give any power to the Referees to entertain that question?—Certainly. If, for instance, a landowner says, "I object to your line, and I can show you a better line, which is out of your limits," I think that it is a question which ought to be determined by the Referees, whether that is a good line or not. They could pass that line, but in their report they might say, "There is a line which has no such defect;" and then the Committee would have to determine the question; and I think that the Referees have been precluded from going into that question by the Standing Order, which has kept them entirely within the limits of deviation.

614. Then it would be a question for the Committee whether a point of that sort should not be sent by them to the Referees?—I think that very often the result would be that the parties, after the Referees had said, "This is a deviation which ought to be carried out, and we think that the landowner has shown a mode of effecting the same object without damaging him," would be advised not to go on with that portion of the line.

615. Mr. *Bonham-Carter.*] In such an alternative line as that, would you have

have the landowner proceed by depositing plans?—I do not know that he should deposit plans and sections, but he ought to give reasonable information to the engineers on the other side, to afford them an opportunity of seeing whether it is a practicable line or not. I think that it would be putting the landowner to a grievous expense if he were required to deposit the plans and sections; but I think that, in practice, sufficient information could be easily given to the engineers on the other side, to enable them to say, "It cannot be done," or "It can be done." I would not go further than that, so as to go into the minutiæ of it: but I would require sufficient to enable it to be said generally whether it was a practicable line or not. That is a very well recognised thing. We had a case the other day, the Greenwich-park case, in which a deviation line was suggested, and if it had been before the Referees, I think that a great deal of trouble and expense might have been saved in a future Session.

616. You have mentioned the modes by which time has been shortened; is it not to be deduced, from what you have stated, that the investigation is carried on much more rapidly by the Referees than by the Committee?—Yes. Before Committees we call the merchant, and the agriculturist, and the landowner, people who want the line; and we are engaged for two or three days upon general evidence. The Committees are always anxious to hear the engineer; and when the engineer comes, an adverse report of the Referees will induce the Committee to throw out the Bill; and, therefore, two or three days have been wasted by beginning at the wrong end; whereas, by beginning with the engineers, the thing would be disposed of at once.

617. Does anything strike you with reference to the variation in practice in those cases in which the report of the Referees has dealt with such instances as a navigation which is interfered with by a railway. It is understood that the engineering and the engineering facts embrace not merely the construction of the railway over the river, but the way in which the navigation is dealt with. A question of policy arises at once, not merely whether the railway is desired by the country, but whether the river should give way to the rail, or the rail give way to the river, or whether any alteration by additional provision can be made, so as to meet the difficulties; do you know any cases in which difficulty has arisen in that way, and where it could be met?—The case of the Netley and Fareham Railway was very much a case in point. There was no engineering defect there, and a question was attempted to be raised before the Referees with reference to the effect upon the navigation, and it was partially gone into. Then before the Committee it was revived, and the whole case turned upon that question of navigation. I do not very well see how the Referees could altogether dispose of those subjects, because they are very often a question of clause, and the Referees cannot give a clause, but the Committee must do it.

618. Lord *Robert Cecil.*] Would you be inclined to give power to the Referees to insert those clauses?—No; I think that the function of the Committee to give clauses should not apply to the Referees, they being a court always sitting and dealing with questions of fact; I do not think they would go so fully into the question of clauses as a Committee would do.

619. Do you think that they are less competent or less inclined?—They are quite as competent, but I think less disposed. I think that they would not entertain the questions as Committees very often do.

620. Do you find any disposition on the part of the Committees to encroach upon the domain of the Referees?—No, I think not at all.

621. You do not find that there is that covetousness or avidity for work on the part of the Committee, that they are anxious to gather to themselves any more jurisdiction than they actually have?—I do not think that there is. On questions of importance, I think that the Committees are always anxious to go into them. I think that they are sometimes a little impatient upon trivial matters; they get wearied with general witnesses, and circumstances which cannot add much to the case as it has been already presented to them; but I think that they are neither inclined to shirk their duty, nor to enter upon points which have been decided by the Referees.

622. You have suggested that in one or two cases you would like to exten the powers of the Referees?—I think so.

623. Should you anticipate any difficulty on the part of the Committees?—From the feeling which I have seen exhibited in Committees, I think rather the reverse,

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reverse. As far as I can judge, the Committees have never shown any jealousy of the Referees.

624. Mr. *Bonham-Carter.*] With reference to the class of cases involving an interference with navigation by a railroad, the report of the Referees states that the navigation is interfered with, and the question of policy arises; of course it is clear that the Referees cannot themselves strike a balance as between the two. Would it appear to you to be of advantage that the Referees should either give some suggestion, or that they should indicate whether any of the evidence taken before them bearing upon the case should be referred in print to the Committee? —I should be averse to that myself, because it would go against my theory of keeping their jurisdictions as distinct as possible; it might create a difference of opinion upon the same point between the Court of Referees and the Committee. There would be no objection, as it appears to me, to the Referees stating in their report, "There is no objection to the bridge, in an engineering point of view, but it may interfere with the navigation." That is a question of policy, because you must see what the traffic on the river is, and what is the traffic to be accommodated by the railway; but the Referees may throw out some suggestion, and call the attention of the Committee to that matter, without expressing an opinion one way or the other.

625. Do you think that in those cases the evidence taken before the Referees would enable them, even when a question of policy was raised before the Referees, to limit the inquiry before the Committee?—I am afraid that if the evidence taken before the Referees were laid before the Committee it would lengthen the inquiry; because it would be very difficult to draw a precise limit as to what portion of the evidence we were to deal with. If you put a portion of the evidence before the Committee, of course the argument would be, "You cannot take a portion without the whole;" and it would open a very wide field.

626. How would you deal with the mode of transferring from the Referees to the Committee questions of that sort, where engineering on both sides had been gone into, but still the balance remained for the Committee; would you do it by a direct suggestion, or would you leave to the Committee the entire evidence?—I do not see myself why the Referees should not, as it were, suggest it. They might say, "There are no engineering defects, but it may be a question of policy;" on which they would give no opinion.

627. In that case, should the whole evidence, upon which the balance has to be struck, be gone into again before the Committee?—It is quite impossible in discussing the case which you are suggesting, namely, a bridge, to steer clear of the question of policy; as for instance, with regard to the masts of vessels, and all those kind of things; they must incidentally arise before the Referees upon the questions put to witnesses and their answers, though the Referees may not have to go into them. But at the same time I think that the Referees might point out that it was a question of policy with regard to the balance of convenience to the public, or to the water public. What I should be anxious to see done would be, that the Referees should not decide partially upon the matter; to be followed by the whole matter being re-opened before the Committee, that seems to me most objectionable.

628. Is that re-opening before the Committee likely?—Most likely, and it has happened; and, therefore, I should like to see some rule laid down, or some order, defining where the Referees' authority upon that subject should cease.

629. Have you any opinion in what direction that rule should be?—With regard to the engineering defects, the Referees should report distinctly, and, with regard to the question of policy, they should say that the question may arise before the Committee.

630. Lord *Robert Cecil.*] You would allow the Referees no amending jurisdiction?—None whatever; if you do you blend the two functions together. What I am endeavouring to convey is, that the two bodies should be kept quite distinct as to the matters with which they deal, and if you allowed the Referees to do things of that sort, it would mix up the two.

631. You have no apprehension of any difficulty in drawing the line with perfect rigidity?—I think not. I think that the Referees would very soon themselves see that they did not go beyond the rules. I do not see that there would be the slightest difficulty in drawing the line between the jurisdiction of the two bodies as clearly as possible; where anything is to be matter of clause, the Referees cannot interfere; and where it is matter of engineering, or estimate, or deposit,

deposit, the Committee cannot interfere, except in adopting the report of the Referees.

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632. Would not it sometimes end in this, that the Referees would say that a certain estimate or a certain proposed work was bad, and that it might be amended in a certain way, but that the amendment would be a matter of clause? —I think that there should be, then, some machinery by which the parties could go for a re-hearing with their amended plan, because directly you introduce new matter, it is a new Bill. If the parties choose to amend their engineering or to amend their line, then they should begin *de novo*, supposing the notices have been complied with.

633. Mr. *Bonham-Carter.*] There must be some limitation to that renewal and variation. Would you allow parties to go more than once with an amended plan?—I think that practically these cases which are suggested would very seldom happen; it is very seldom done in practice; it is a very expensive practice, and the parties would rather come again next year. I also think that the effect would be to make people much more careful in preparing their plans, and certainly with regard to estimates, I think that the estimates in another year will be very much more carefully prepared than they have been hitherto.

634. As the objectors begin, it is competent for the promoters to try and meet the objections by a clause which they will submit to the Committee?—No doubt.

635. Would you allow the Referees to hear any amendment, with certain limitations, on the part of promoters after hearing the objectors' case?—I do not think that there would be any objection to doing it. The scheme is wanted to be as good as it can be made on public grounds, and I do not see why the public should be deprived of having a better scheme on account of any technical difficulty, or any order in force.

636. At present, in cases where the Referees, although they do not report entirely against the Bill, still point out an imperfection and an amendment is suggested to the Committee, there is a reference back to the Referees?—Yes.

637. Would you allow an increased scope of the powers of the Referees, so as to enable them at once, and upon a continuous hearing, to entertain the amendments which the promoters suggest, rather than having a reference back to them?—No; I would keep entirely in the hands of the Committee the final disposal of the Bill. If the Committee were to say that if the engineering or the estimate would allow of such and such things being done, they would sanction such and such things, then if the Referees said that they could be done, there might be an end of it, and they might be put into the Bill.

638. Would you preclude the Referees from entertaining an amendment which, upon the face of it, appeared to be beneficial, when a promoter's scheme came first before them?—No; I would give them every opportunity of making the scheme as good as they could. I think that the better you can get the thing, the better for the public. I would do it upon that ground only.

639. Mr. *Milner Gibson.*] Would you not find it rather difficult to define exactly what is meant by the words "engineering details," so as to show clearly what the province of the Referees is?—No; I think that is perfectly understood before the Court of Referees, by counsel, and also by engineers. I do not think that there would be any difficulty in it, and I think that the experience of this very Session shows it. We have all kept aloof from questions of engineering and estimate before Committees.

640. Supposing that the opponents of a scheme objected to new works, on the ground that those works prejudicially affected works of their own; is that an engineering question?—No; it is not an engineering question, unless it can be shown that the engineering which is to affect those works prejudicially is *per se* bad.

641. Supposing that I am an opponent of new works, I do not say that those are *per se* bad, but I say that they prejudicially affect works of mine?—That is distinctly a question for the Committee; it is a question of policy whether your individual rights are to be sacrificed to the public rights.

642. Am I to go into that question before the Referees or before the Committee?—Before the Committee, because you do not there call in question the engineering details. It may be one piece of stone which will do the whole thing; it may be a common brick wall which will do it.

643. Have you found any difficulty, as the Standing Orders are now drawn,

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in advising parties whether they should make their objections before the Referees, or reserve them for the Committee?—None whatever; but I think that it would be clearer if there were two petitions. Your question is rather, perhaps, a difficult one to answer off-hand. You ask me whether there is any difficulty in advising parties whether they should appear before the Referees or before the Committee; but the petition is to the Committee in the first instance, and the question is, "Shall we appear before the Referees?" Then we say, "Yes, if there are engineering details." But in all cases the petition is first to the Committee, and then you endorse it if there are any points to be raised before the Referees.

644. If I have understood your evidence, it comes to this, that you would make these Referees merely the finders, as it were, of facts?—Precisely.

645. And that they should not travel into opinions or inferences?—No.

646. But that they should supply the Committee with facts upon which evidence should not be taken afterwards?—Certainly, I should say that the question, perhaps, depends upon two or three points, namely, estimate and engineering, and, I think, the money part of the question.

647. Is it not a little difficult to distinguish between facts and opinions; do they not mix themselves up very much?—I do not know whether you have had leisure to read the Reports of the Referees, but you will see that they do not mix them up.

648. Where the Referees, for instance, state that the works are sufficient for their purpose, is not that an opinion founded upon evidence?—No doubt that is an opinion, but then it is a fact found; the Referees find it to the best of their judgment and belief, that is to say, that evidence has been given before them, upon which they arrive at a certain conclusion.

649. Supposing that there were not practical difficulties in the way which there appear to be in the House of Commons, would you not say, as a general rule, that the Court which is to decide should hear everything which is necessary for its decision?—I do not think that it is necessary.

650. Is it not preferable, if there are not practical difficulties in the way?—No, I think not, for this reason: I think that the two things are so different and distinct, and that the question of engineering is so distinct from the question of policy, and that the question of estimate is so distinct from the question of policy or the interest of landowners and others, that I see no reason why, if the line is said to be good in an engineering point of view, and if the estimate is sufficient, another body cannot decide the question whether upon policy or justice to other parties, the lines should be made or not.

651. Is there not this distinction, that the Referees or the persons making the preliminary investigation, might report that certain things had been done, and that certain forms had been complied with, so as to save the Committee the necessity of going into those matters; but when they begin to report opinions upon evidence, is it not rather trenching upon the functions of the Committee if the Committee is to decide?—I do not see that myself; it must be a matter of opinion to a certain extent; for instance, engineering defects, and whether there is good or bad engineering must be a matter of opinion; so are more than half the things which one has to deal with.

652. I would mention the new plan of a pneumatic railway under Oxford-street; is that to be considered as an opinion or not; and is it to be relinquished if the Referees should report that the proposed works are not efficient for the objects proposed?—That would be as much a fact for their decision as for the decision of the Committee.

653. Would you make the fate of the Bill depend upon a report, as a fact, from the Referees, that those proposed works were not efficient for their objects?—I would, because you must leave it to some one at least to decide in the affirmative or the negative, and I cannot conceive any persons who are more competent to deal with these subjects than the Referees, and whose opinion would be better after engineers of the greatest eminence have been examined before them; and, therefore, I think that you cannot get a better mode of deciding that question. Of course it must always be a matter of opinion, but still there remains the matter of fact as the result of those opinions. It is possible that if the Referees felt any doubt upon the subject in any very novel or difficult case, they might suggest the having the subject further considered, but it seems to me that it would be very difficult to find a tribunal to decide a question of that sort better than the Referees or the material which they have. You find Mr. Hawkshaw

Hawkshaw and Mr. Harrison, and all the first engineers of the day, coming before them and giving their opinions; and, always assuming that the thing is done most honestly and conscientiously, I do not see where you can get a better opinion. I do not see to whom you can refer the matter. The Committee can only give a decision when certain conditions have been complied with. If the Referees have the authority which they have exercised this year, and to which the Committees have deferred, the Committee can only pass the Bill subject, as it were, to the approval of the Referees upon certain points.

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654. Mr. *Ingham.*] It is analogous to the finding of the Examiners?—Very much so.

655. The Examiners have more limited functions, but still it is an inquiry as to a condition precedent to the Bill being entertained?—That is the way in which I look upon it. A Committee will not pass the Bill unless the Referees say that there are no engineering defects; no Committee would think of passing a Bill upon which the Referees reported, "This is a bad line, and the estimate is not sufficient;" they must be guided by it.

656. Sir *John Shelley.*] They would not pass it unless they differed in opinion from the Referees; they might, upon hearing the evidence, differ from the Referees?—They might, no doubt; but I understand that now the practice is, that the Committees do not call in question the decision of the Referees upon those subjects. If you once did that, then you would have to do away, in my humble opinion, with all the advantages which you have derived from the Referees. Of course, no man likes to be beaten, and as long as there is a chance of winning, he will go on from one court to another.

657. Mr. *Ingham.*] It would double the expense, and it would double the time?—Exactly.

658. Mr. *Milner Gibson.*] What you want to do is so to define the province of these Referees that the Committee shall have it in its power to receive from them everything which is necessary to guide it to its decision?—Yes; the report of the Referees would be that the thing is a safe thing to be done, and that money can be found to do it, and that it is a *bona fide* scheme. I consider that those questions are subjects of preliminary inquiry. Then the question whether, on public grounds, Parliament should give its sanction to it, is a question to be sifted and gone through before the Committee. I cannot myself see a difficulty in the matter.

659. Mr. *Ingham.*] There might be a case where the House would have an opportunity of giving an instruction to the Committee before they sit?—No doubt.

660. Because the Reports of the Referees are given before the Committee meet upon the Bill?—Yes.

661. In the case of a new measure such as a pneumatic line, the House might adopt that course?—I have given every answer upon the assumption that the House would never part with its own authority; because if a Bill is thrown out by a Committee, every now and then there is one application for a recommittal, if any injustice is likely to be done, and the House always has the power in its own hands.

662. *Chairman.*] And the Committee always has the power of referring back to the Referees any subject upon which it wishes for a fresh inquiry?—No doubt.

663. If for instance there is one alternative line which the Committee thinks to be better than the one which has been referred to the Referees, it can give its instructions accordingly and refer that alternative line to the Referees?—It cannot be done now unless it is within the limits of deviation; the Referees say that the Standing Order is against them, but I think it very wholesome that such a line should be sent to the Referees.

664. Mr. *Milner Gibson.*] Do you not think that it is more difficult to get the sanction of Parliament to an undertaking with this new Court of Inquiry?—Not if it is a good one. I think that it is more difficult with a bad one, but not with a good one.

665. It is doubtful, and you cannot prove these things before they are made. Is there not, under the present system, a better chance of throwing out a Bill than there was before the Referees existed?—I do not see that it follows. As I have said, I think that if the thing is good in itself, and has elements of success in it, the Referees will find that out and will not stop the Bill; but I think that

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many wild schemes might be stopped, and I think that it would be a very good thing if they were, and that it is very desirable that the Referees should do it.

666. Some of the best railways, I believe, have been thrown out several times?—But I do not know that the Referees would have thrown them out, and I do not think that they would throw a thing out because it was novel.

667. If there is an elaborate investigation of matters of detail, which many people think it hardly necessary to go into, does it not give opponents an increased chance of defeating a measure?—I think not, if it can bear investigation.

668. Is there not a greater chance of a good measure failing?—I think not; but I think that it is much more likely that a bad measure will be found out.

669. Sir *John Shelley.*] In the case of estimates, it appears from the evidence which we have had, that the Referees go very carefully into the question of construction and so on?—Yes.

670. Do you not think that in the case of a new line which comes before Parliament with the sanction of all the landowners in the district, competing against a great company which has the monopoly of the district, the very strict investigation which it appears by the evidence is gone into before the Referees, is likely to throw difficulties in the way of a new line being brought forward?—I can only answer the question in this way; according to the Standing Orders, there must be an estimate sufficient in the opinion of competent parties for making that line; if it is shown to the satisfaction of any tribunal, whether the Committee or the Referees, that the estimate is not sufficient, then according to your own rules, that line ought not to be sanctioned. That is a matter which is now submitted to the Referees, and I say that they, from constantly dealing with that matter, are better versed in it than a miscellaneous Committee; and gentlemen who are always at it day after day I think can deal with it better than those who are strangers to it.

671. Mr. *Ingham.*] Do you not hold the examination before the Referees to be a more studious kind of examination than that which takes place in a Committee Room?—It is certainly more like practising before a legal tribunal. It seems very analogous to being in the one case before the judges in equity, and in the other before a jury.

672. You exclude all exciting topics before the Referees?—I think that more justice is done by going through those points in that way; it is better as regards engineering, and better as regards estimates.

673. Mr. *Milner Gibson.*] If parties are prepared to give a security by deposit for the completion of the work, and are prepared to spend money to make it, and all parties concerned wish it to be made, is it necessary to grant an elaborate examination as to whether these parties have well managed their own affairs, and as to the remuneration which they will receive; is there any public advantage in such an elaborate investigation?—At present Parliament has said that there is; Parliament says that works ought not to be sanctioned unless the estimates are proved to be satisfactory.

674. *Chairman.*] The amount of deposit required depending upon the amount of the estimate?—Yes; but as the Right Honourable Gentleman puts it, if people undertake to be responsible for the construction of a work, if it costs 50,000*l.* or 100,000 *l.* more than is anticipated, I do not see that it is anybody's business but their own, so long as the work is well done.

675. Lord *Stanley.*] So long as it is *bona fide*, and there is proof that the work will not be dropped?—Yes; it is a thing which is not important at all unless you see that there is something upon the face of it to the contrary, such as getting up the line for sale, or something very suspicious. If people invest 200,000*l.* in carrying it out, and there should be 50,000 *l.* or 100,000 *l.* short, it does not follow that there is any fear of the line being dropped.

676. Lord *Robert Cecil.*] Is the getting up a line for sale always on the face of it?—I think so, pretty well, now-a-days.

677. Mr. *Milner Gibson.*] But if it is got up for sale, nobody will buy it if it is worth nothing?—Yes; 10 or 12 years ago it was a different matter, but now-a-days I do not think that so many lines are bought as there used to be. A great many of the small local lines are *bona fide*.

678. Lord *Robert Cecil.*] Might they not be brought forward as a mere stock jobbing operation?—I think that they are not got up in that way; they are generally

generally not of a very expensive character, but are in the neighbourhood of a large railway, or between two railways.

679. Mr. *Milner Gibson.*] But are not railways public necessities; are they not the high ways?—No doubt.

680. And is it not right that every reasonable facility should be given for their construction?—I think so; but at the same time, as the case of necessity becomes more frequent, I think that Parliament must exercise greater vigilance in seeing that the schemes are not bad in engineering respects, and are works which can be *bona fide* carried out.

681. Ought not we to take care that those parties who are in possession of existing lines should not be furnished with the means to defeat new undertakings by reason of these inquiries?—I speak of large companies; I do not think that the existing companies have been very successful in throwing out small undertakings in the last year or two. There have been one or two cases I know; the Brighton Railway Company have done so, and this year they have got a line very like it through the House of Commons. I think that if a line is good it will make its way, and will be passed in spite of all the great companies in the kingdom.

682. Is it not a question of making roads?—No doubt it is.

683. Sir *John Shelley.*] In your opinion, does the system of Referees throw difficulties in the way of competing lines?—No difficulty whatever which I can see.

684. Lord *Robert Cecil.*] Am I to understand you to say that a great company would propose a line, in order to prevent a line over the same ground being made by hostile parties, and being in diverse hands?—I think that they would, and every now and then they bring forward, no doubt, what is called a block line; but that is a question which, probably, it would be difficult to inquire into before the Referees, and which should be inquired into before the Committee; and if it is a block line, the Committees will not pass it. The Committees are quite alive to that, now-a-days.

685. Mr. *Bonham-Carter.*] Take the case of a block line, to prevent a straight line being made, would you give the Referees any power to inquire into the directness of the line?—The Referees would have nothing to do with it; that would be entirely a question of policy.

686. Would it not come before them upon questions of fact?—Not unless a landowner or some person objected to the engineering. A block line is not so much a zigzag line, instead of a straight one, as a line which does not allow shunting the traffic off the line.

687. *Chairman.*] What is your opinion with regard to a single counsel being heard before the Referees?—My own opinion, with regard to the system of having a single counsel, is that it has worked extremely well for the public. Personally it has been a very great inconvenience, and a very great loss to many, but, at the same time, I think that the public must be gainers by it, because it is not the same as having three counsel; those three counsel have three briefs, and that is a very large item in the costs; and upon the ground of diminishing expense, it must be obvious that that has been one cause of the diminution in the expense. I do not see myself why, in very special cases, cases which last three or four days before the Referees, the Referees might not, upon application, allow two counsel, because not only is it hard upon one counsel to have to attend to that case, but likewise (I think that the Severn Bridge is one of those cases) he may expect a special fee for giving himself exclusively up to it, and then you get an objection as regards diminishing the expense. I think that if the Referees, upon the application of the parties, had the power to allow more than one counsel, there would be no inconvenience. My learned friend Mr. Hope Scott, with the multifarious business which he has, cannot go before the Referees. I think that the parties might be glad to have him come in, and examine or cross-examine one particular witness, but they cannot have the benefit of his assistance. If they like to have him, and to pay for him, I think that they ought to be able to do so, and it is a hardship upon them that they cannot; and I do not think that it would be any loss to the parties themselves, if in special cases they were allowed to have two counsel.

688. Have you found any inconvenience from this circumstance, that whereas the promoters of a Bill have only one counsel, the petitioners may be very numerous, each of which is entitled to have one counsel; do the promoters stand a fair

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a fair chance with only one counsel?—I do not think that it is any disadvantage to have sometimes several counsel against you, because they do not always pull one way; I have not heard that suggested as an inconvenience, and I do not think that anyone will suggest it as an inconvenience.

689. Lord *Stanley*.] I suppose that if there are various opponents they sometimes fight one another, as well as the promoters?—No doubt.

George Burrow Gregory, Esq., called in; and Examined.

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690. *Chairman*.] YOU act as a Parliamentary Agent?—I do.

691. And you have had considerable experience with regard to Private Bill legislation?—I have practised for upwards of 20 years.

692. Will you give your opinion from your experience of the present system of Referees?—I think that there has been a saving of time by it; but whether there has been much saving of expense at present I doubt, and I think that that has arisen to some extent from the uncertainty respecting the jurisdiction of the Referees; I have felt great difficulty, as, I believe, other gentlemen have also felt, in advising parties in the early stages where the jurisdiction of the Referees began or ended, and what it comprised. The consequence was that we were obliged to prepare ourselves to go before the Referees on many questions which really did not come under their cognizance, from the fear of being shut out when we got to the Committee upon those points. There is an element of expense, which I have not heard adverted to to-day, but which is a very considerable one, namely, bringing up parties and witnesses from the country for the purpose of attending before the Referees. You have not only the expense of counsel, but you have to bring up all your parties from the country, and to send them back again, and then bring them up again for the Committee on the Bill. I daresay that in a subsequent Session that might be in some degree remedied by the functions of the tribunal being better understood; at the same time I am afraid that it will prevail to a considerable extent so long as there is a divided jurisdiction, that is to say, so long as you have Referees, and the Committee upon the Bill.

693. Can you give the Committee an illustration of the difficulty which you have met with under that head?—There was the Halifax Water Bill, from Yorkshire. It involved engineering because it involved the supply of water to a town; it also involved, to a considerable extent, a question of policy as to the supply, and the sources from which it should be derived. The water was to be gathered under powers extending over a large district of country for the purposes for which it was required. It was very doubtful whether that matter should come before the Referees or not. All the parties were obliged to be up from Halifax to attend the Referees. When we came to consider it (we were represented by counsel), we determined that the right course to pursue was to submit the matter to the Referees, and ask them whether they chose to entertain the question; they said "No;" that they thought that it was a question for the Committee. The parties all went back again, and they all came before the Committee in ordinary course, and nothing was done before the Referees.

694. Were your clients put to considerable expense in that case?—Yes; because professional gentlemen coming up from Yorkshire is a matter of considerable expense, and we had to prepare a brief; we had only one counsel, and therefore there was not much expense in that respect; but still an unnecessary expense was incurred. I can give other instances, I have no doubt.

695. Is that one of the things which you think might be obviated in another Session?—So long as there are the two tribunals, I am afraid that a great many of those cases must arise; I do not quite agree with Mr. Rodwell with regard to the power of confining the jurisdiction within strict limits. I think that the Referees have, to a certain extent, defined it now; we know a great deal better what they will take than we did, but I am afraid that a case of that sort always will arise.

696. Will you define more accurately the question to which you have just alluded as the Halifax Waterworks Bill?—The Corporation of Halifax had waterworks in their hands for the supply of the town; they came for the purpose of extending their powers of constructing those waterworks and seeking for the power of better supplying the town. We were the owners of springs and of lands

lands in the neighbourhood over which jurisdiction was sought, and we objected to the Corporation having those powers, and the petitions were endorsed, "engineering details and efficiency of works," but certainly that was only incidental. The main question was whether the Corporation ought, as a matter of policy, to have these works and these powers which they sought; but we were obliged to go before the Referees in the first instance in order that they might decide that they would not entertain our case, as otherwise we considered that we might be prejudiced before the Committee by being told, "You ought to have taken this case to the Referees."

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697. Mr. *Milner Gibson.*] The Standing Order says that "in the case of Waterworks Bills" the Referees shall go into "the nature and amount of the existing and the proposed source of supply"?—Just so.

698. Those matters had to be gone into?—I do not think that they considered our opposition directed so peculiarly to that, that it was necessary for them to inquire into it, or at any rate to entertain our opposition upon those points; they did not take our opposition either upon the present or upon the proposed sources of supply, but they considered that our case would be raised by the general question, whether these powers ought to be entrusted to the Corporation.

699. *Chairman.*] The main question upon which you went was, whether the Corporation should be entrusted with those powers?—Whether the Corporation should have them at all. There was a peculiarity in that case; there was an old Act of Parliament existing in the borough of Halifax of, I think, 1670, or some date of that sort, which gave enormous powers, which were continued from time to time, and we wanted to get rid of that Act, and did ultimately get rid of it; that was one of the questions raised.

700. Was the question which was submitted to the Referees by the Standing Order in any way connected with the legislative power to which you have just alluded, whether the Corporation should be entrusted with the supply of water?—Yes, I should say that it was, to some extent.

701. In what particulars?—The Corporation had the power, under this old Act, which they sought to revive and continue, of going over a large district, and taking the springs there; that was a source of supply which they said was necessary for the town, and probably it might be contended that it came under the words "the proposed source of supply," But, on the other hand, it was said, "that is a question with which the Committee can very fairly deal; it is not a matter of engineering; it is not a power which affects works; it is a question which affects private interests in the district."

702. Should you have any difficulty now, having had the experience of that particular question, in advising your clients as to the course which they should take with regard to going before the Referees or before a Committee of the House?—I should not have anything like the same difficulty; I think that I should probably advise them that it was not a question for the Referees. But it is a very responsible thing for a practitioner to take upon himself, because he may abandon the whole of his opposition to the Bill.

703. If you had had your choice, would you have given the decision of the whole of that question to the Referees?—You are now supposing that the Referees have the power of dealing with the whole question, policy, and everything.

704. On behalf of your clients, would you have preferred that the Referees should have had the disposal of the whole question instead of a part of it?—That raises the general question. I certainly think that the Referees are a very good tribunal, and it is one to which I would very willingly submit the whole case.

705. On what grounds do you think that the Referees would have efficiently conducted the whole of that inquiry?—The Referees are in the nature of a permanent tribunal; they have a uniform course of practice. I think that they pay very close attention to the points submitted to them, and confine the issues closely, and the evidence to the issues, and therefore I think that they are a very satisfactory tribunal.

706. That you think is in consequence of its being a more permanent tribunal than a Committee?—I do.

707. Mr. *Milner Gibson.*] But they are not administering any law, are they?—The Honourable Chairman, I think, put it to me, whether, supposing they had the power, I would go before the Referees in preference to the Committee; it is

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a general question between the Referees and the Committee; I should be perfectly willing to leave the whole case to the Court of Referees, so as to give them the entire jurisdiction, that would be my view.

708. Do you think that that tribunal is better able to judge of the question of public policy?—I think that it is quite as well able, framed as it is now; I would keep the constitution of it very much as it is, and I think that, taking the evidence as to the policy, it is quite as competent to deal with that evidence as a Committee.

709. Why do you say that it is better?—I do not say that it is better, except that it is permanent, and therefore has more uniformity in its procedure and in its decisions.

710. The subject which it has to deal with, is not uniform: it is not a tribunal to say what the legal effect of certain facts is, but it is a tribunal to decide whether upon general grounds of public expediency, a new law should be made?—Yes, but there is a similarity about all those questions of public expediency.

711. Is the duty of a judge the same as that of a legislator?—It is hardly strictly legislation which you are submitting to these tribunals.

712. In that particular case it may not be?—Nor in most cases. You are asked to confer powers overriding common law rights of individuals, and you are asked to confer them upon parties for their own benefit, though, to a certain extent, upon public grounds; therefore you are, in fact, to a considerable extent, trying the issue between the parties seeking those powers, and the parties whose rights you are to override.

713. *Chairman.*] I think that you wish to suggest to the Committee some alteration with regard to the conduct of private business?—I think that a great deal of the expense incurred in private business is by having it compressed into so very short a period. You now have 13 or 14 courts, all sitting within a period of six weeks, and we work while that is going on under very high pressure; if you work under high pressure, you must be paid, and pay for it; and I think that if you could spread the work over a longer period, you would save a very considerable portion of the expense which is now incurred.

714. Lord *Stanley.*] Are you now speaking of the inquiry before the Referees, or of the inquiry before Committees?—I am now speaking generally. Then the question is, whether the institution of the Referees' Court gives you the means of doing it. I have stated that I should be quite willing to leave the whole question to the Referees; in fact, I think that they are quite as competent as a Committee to deal with the question of policy, and are better able to deal with the other questions which enter into the elements of these decisions, and, therefore, I would leave the whole case to them, and I would extend their sittings over a longer period of the year. I do not see why they should not sit six or seven months in the year, and adopt somewhat the machinery now employed under the Piers and Harbours Act, which is in operation, by which the Board of Trade has the power of making Provisional Orders where it sees that a case is made for it, those Provisional Orders being submitted to Parliament by a Bill, and with the power to parties who are dissatisfied to appear upon that Bill if they think proper. I think that something of that sort might be usefully applied in this case.

715. *Chairman.*] But there are other objects under Provisional Orders besides the Piers and Harbour Works?—Yes, there are Inclosure Acts. I am taking the most recent case of Piers and Harbours, which perhaps is more analogous to the ordinary cases before Parliament. I would give the Referees the power of hearing all these cases, and of making a Provisional Order, or a Bill, or whatever it is; but it would be the same thing as a Bill which now comes before a Committee. I would have it submitted to Parliament, and if parties were dissatisfied with it they might have the power of being heard upon it; but, then, they must take the risk of costs. Parliament has now the power of giving costs.

716. Mr. *Milner Gibson.*] The Committee to hear the case should be the Referees?—Yes. Supposing that a party was dissatisfied with the decision of the Referees, and chose to petition when the order came for confirmation, I would not absolutely shut him out from it; he might have the case referred to a Committee, but he would do it at the risk of costs.

717. Would there not be some danger, if the Referees had the whole jurisdiction such as you recommend, that they would get into a uniform course of precedents

cedents which they could not get out of; and that they would not be able to move with the times, and sanction those improvements which were required?—They would be, like everybody else, amenable to public opinion. They would be amenable to the expression of opinion in the House; and I think that, if it came to such a point as that, it would be set right.

718. You are aware that undertakings appear very doubtful at first, and that afterwards, as opinion gathers, they appear more reasonable, and subsequently they are sanctioned?—Yes.

719. But if you had uniformity of decision, and an adherence to precedent in this tribunal, would it not increase the difficulty of moving with public opinion?—I do not see much danger from that. I presume that you are referring to some new inventions which might be checked by it.

720. New lines, for instance, which are opposed very strongly at first, but are afterwards sanctioned?—That is a case of public necessity, which would come before them upon evidence, and they would have to decide upon the evidence of that necessity.

721. But their decisions would not be uniform if they sanctioned one day what they had rejected on a previous day?—They would not be exactly the same; they might be uniform; they would be upon the same principle.

722. How can you decide against a line one Session and in favour of it the following, and still be uniform?—I am not sure that it is very desirable that you should do so, and I believe that Parliament is not now acting upon that principle.

723. Ought it to act upon that principle?—No; I do not think that it should. I say that you should have something like principle governing you.

724. Should you not have something of the elastic system which will move with the times in matters of this kind, where you are not administering a written law?—Yes, and I do not know that by handing it over to this tribunal I should render it much less elastic than by leaving it to a Committee of the House of Commons.

725. You would not have attached to the same uniformity of decision as in the law courts?—I am not contending for uniformity of decision, but for uniformity of practice and procedure.

726. *Chairman.*] From your experience of inclosures, and piers, and harbours, do you think that, since those subjects have been dealt with as you mention, there has been any diminution in the number coming before Parliament?—There are very few cases which come, as opposed cases, before Parliament.

727. Are there fewer applications?—No; the applications, I think, are quite as numerous. The applications for these Provisional Orders are, I think, as numerous as the previous applications to Parliament.

728. Are the cases which are passed as numerous?—I should think that they were.

729. Sir *John Shelley.*] Do you not think that the fact of the same individuals having to try the same case would rather militate against any previous decisions being upset in the case of the Referees being a permanent tribunal as you have stated; they having, say in this year, decided against a particular competing line, do you not think that it is more likely that they would feel a disinclination in another Session to decide against their own decision, than if it was a new tribunal?—I think so, but I do not think that it is very desirable that the decision should be upset. I am quite aware that there should be modifications upon large principles from time to time. Public opinion may change, or there may be something of that sort.

730. With regard to railways, we will take, for instance, the Great Northern, or the London, Chatham, and Dover, or any of these lines which have been brought forward and rejected, perhaps twice, and, in some instances, perhaps three times, but which ultimately have been passed under the former system, many of those lines being of very great public benefit. Do you not think that the fact of a tribunal such as you allude to being immoveable, there would be more difficulty in those cases in the reversal of the original decision than was the case before the Referees were appointed, and with a varying Committee?—I do not think that the London, Chatham, and Dover line was ever rejected; it was another line altogether, if I recollect rightly, namely, the East Kent; nor am I aware that the Great Northern was ever rejected. But in such case there are many other circumstances which another tribunal would have had to take into account;

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they are probably better supported, and a good deal of the opposition previously offered to them is withdrawn; there may be new traffic offered to them, or to be provided for.

731. Do you not think that the fact of these Referees being a permanent tribunal would be likely to make the difficulty greater of a scheme succeeding in one Session which had failed in a previous one?—I think that a scheme which they had once rejected must come under different auspices, and make a much better case.

732. *Chairman.*] What class of Bills would you submit to a tribunal constituted as you suggest, and conducting its business in the same way as the Piers and Harbours Bills are now conducted?—The Court of Referees would be very much as it is now; you might perhaps strengthen it by one or two members.

733. Would you submit railways to it?—Certainly.

734. Mr. *Milner Gibson.*] Would you begin with a Provisional Order?—Yes.

735. A Provisional Order made in a department of the Government?—No; made by the Court of Referees.

736. *Chairman.*] You would have the Court of Referees sitting permanently from the 1st of January to the 31st of December?—Of course there must be an interval.

737. You would make it a permanent court for the purpose of submitting to it questions of fact?—Yes.

738. With the view of making a preliminary inquiry?—Yes; and you may say passing the Bill, for it would be tantamount to that; it would be passing it subject to the subsequent confirmation by Parliament.

739. From the number of years for which you have practised as a Parliamentary Agent, you must recollect the system of the Preliminary Inquiry Act?—I do.

740. It was very much upon that principle, was it not?—No; because that was not a court constituted by the House; there were two Preliminary Inquiry Acts: one was a Preliminary Inquiry Act in the case of Towns Improvements Acts and so on, and the other was an inquiry by the Board of Trade in the case of railways.

741. That was a Preliminary Inquiry Act, I think, in 1846?—It was when local inquiries were made by local commissioners who were sent down; those commissioners, I think, were nominated by the Commissioners of Woods and Forests; they were barristers or solicitors, and surveyors, but were not selected or nominated by Parliament, or constituting anything like a permanent tribunal.

742. The objection which existed in that case was that the preliminary inquiry did not tend to stop the double inquiry?—No, it did not; Parliament insisted upon rehearing the case.

743. Do you think that Parliament would be induced to take a different course with regard to an inquiry instituted by the Referees?—I should think that it would, considering how the tribunal is constituted; and there is also this element in it now, that the question of costs is introduced, which I think would weigh a good deal with parties.

744. Sir *John Shelley.*] Do you contemplate having Members of Parliament upon the Court of Referees?—Yes; I would have two Members of Parliament upon it.

745. Mr. *Ingham.*] Would you have more than one court sitting simultaneously?—That, I think, must be regulated by the amount of business.

746. You think that it would obviate the objection of making a second application: the composition of the court would be the same?—Yes.

747. Sir *John Shelley.*] In your opinion, judging from your experience of private business, would more than one court be necessary?—I would have one court sitting, with the exception of three months in the year. For three months, I think, you must give everybody closed doors; and I would have no notices given, or anything done, during that period. But with the court sitting for eight or nine months in the year, seeing the way in which the Referees have got through the business of this Session, I think that certainly two courts would do the whole business.

748. Would you have three Members in each court?—I think that I would have another Member introduced into it; it would make it stronger.

749. *Chairman.*] Have you been before the Court of Referees in this Session?—Yes; on many occasions.

750. Do you think that the inquiry there is conducted with greater brevity than before Committees?—Yes; I think that it is more close and more direct.

751. From what do you think that that arises?—I think that it arises from the gentlemen who constitute the court being very often more skilled in the subjects before them.

752. From the constant repetition of the same things they would be likely to get into a closer way of conducting their examination than is the case in Committees?—I think so.

753. Do you think that the investigation before the Court of Referees is conducted with less expense if you only consider the court itself?—Just so.

754. The increased expense to which you have alluded arises from the want of a definition of the duties to be performed by the two tribunals?—Yes. I am afraid that you will never get a distinct line drawn, and that you must always be prepared to have some of the questions which have been before the Referees opened in the Committees, or touched upon in the Committees.

755. Lord *Robert Cecil.*] Have you any experience of that having been already done?—Yes; I may mention the case of the Okehampton Railway; I was in that case; the Referees had reported against the Bill on engineering grounds; but the whole of that case was gone into before the Committee; the Committee abided by the opinion of the Referees, but the promoters of the Bill met it in this way: they said, "We can modify this," or "We can get over this difficulty," and so on; and it was therefore necessary to allow them to go into the whole case, and of course then the opponents had to go into the case.

756. Who was the Chairman?—Mr. North.

757. *Chairman.*] I believe that in that case it could have been referred back to the Referees if the Committee had so thought fit?—I suppose that it might; it was a question whether the difficulty in which the promoters were could be met by any modification of their scheme, and therefore I presume that it might have been sent back to the Referees.

758. I believe that that would have been attended with considerable expense?—Yes.

759. And I believe that that led to the Committee undertaking it?—Yes, because the whole thing was before the Committee, and the witnesses were there.

760. Mr. *Milner Gibson.*] In your experience would the matters which have been taken before the Referees have been examined into with as much care before the Committees; would that work have been done at all?—I must say that the Committees, particularly the Railway Committees, presided over by the Chairmen as they are, do their duty remarkably well and closely, but I think that work would have been done more diffusely before the Committee.

761. But would the same work have been done, in some way or another?—Yes, I should think that it would. Certainly in Railway Bills, or Gas and Water Bills, there may have been cases, in which I have been concerned, where the same work would not have been done, because the attention of the Committee might not have been so specially directed to the points raised before the Referees.

762. Sir *John Shelley.*] I understood you to say, that a part of the extra expense which parties have been put to has been owing to the new machinery creating a doubt as to what points should be brought before the Referees, and what not?—Yes.

763. Do you think that generally a Parliamentary Agent would take upon himself the risk of saying to his client, "That is not a case to go before the Referees"?—That is a very difficult matter sometimes. Of course there are cases in which you can at once say, that it is not a case for the Referees, but there are numbers of cases which run so very close that you cannot take that responsibility.

764. Do not you think that, generally speaking, a Parliamentary Agent would rather be inclined to take the safe side, and not run any risk of responsibility?—Certainly.

765. And therefore, practically, except as you say in certain cases where there is no doubt, almost all cases would go before the Referees?—A great many of them would.

766. Mr. *Milner Gibson.*] With respect to the expenses connected, for instance,

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stance, with solicitors; you are a solicitor as well as a Parliamentary Agent?—Yes.

767. With regard to the Minutes of Evidence, the charge which you used to make for Minutes of Evidence is very much reduced, in consequence of the Orders of the House, is it not?—Yes, it is very considerably reduced; I am not able to tell you what it is, but in fact there is very little profit upon it now to the solicitor.

768. Has that change given a considerable relief to the clients?—It has, I should think; I have no doubt that it has.

769. Both before Committees and before the Referees?—Yes, no doubt; the client has benefited considerably at the expense of the solicitor.

770. Do you hear any complaint of that arrangement from the profession?—Yes, I have heard some complaints from the profession; and I know that it was the subject of considerable remonstrance. I am on the Council of the Law Institution, where the question was considered, and I know that there were remonstrances against it there.

771. Still the business has been carried on by a highly respectable body of men under the present conditions?—Yes; there are some little additions made to the fees, on the other hand, to meet that reduction to some extent, but they do not make up for it.

772. Sir *John Shelley*.] What is your opinion of only one counsel being employed before the Referees; how does it work?—In ordinary times it works pretty well; but when there are many Committees sitting, there is a great difficulty in getting one counsel to attend to a case. It also leads to this, that you have to pay that one counsel sometimes as much as you would pay to a greater number, because you must make it worth his while to be there.

773. Has it had the practical result this year of increasing the fees?—It has in many cases, I know.

774. But has it shortened the time before the Referees?—I am not sure that the one counsel has shortened the time so much as the course taken by the Referees themselves by keeping the whole case closer and the evidence more direct.

775. You think that the fact of employing only one counsel has resulted in that?—No, I do not think that the employment of one counsel has had that effect. I think that it arises more from the tribunal itself.

776. Lord *Robert Cecil*.] Is it the case that the Court of Referees has only had one Member of Parliament in it at a time?—No; there have been two.

777. You were expressing at the commencement of your evidence that you would feel equal confidence in submitting the whole of your case, policy and all, to the Referees as you would to a Committee of the House?—Yes.

778. Do you regard the additional Members of the Committees of the House, besides the Chairman, as any great additional strength to the Committees?—That is rather a delicate question.

779. Then I will put it in another form: is your confidence principally reposed in the Chairman or in the additional Members of the Committee?—Of course we have always considered that the Chairman carries considerable weight in the Committee; that he has been selected for that purpose, and that he has probably more Parliamentary experience than the other Members of the Committee. We view his opinion with perhaps greater respect than that of the other Members, and we direct our case more to it.

780. Does it make any appreciable difference in your confidence in the Committee whether it consists of five Members or of four?—No; a Committee of four, I think, answers very well.

781. Would it make any difference in your confidence in the Committee whether it consisted of four Members or of three?—I think that it is quite small enough as it is.

782. Would you feel that a Committee of four was likely to give you a better judgment than a Committee of three?—A Committee of four, as the Referees would be composed, that is to say, four gentlemen very carefully selected, as no doubt they would be, I think would be a better tribunal than limiting the number to three, and I think, perhaps, with reference to ulterior proceedings, a tribunal of more weight.

783. But taking a Committee as it is now composed, would you have more confidence

confidence in a Committee of four than in a Committee of three?—Yes; I would rather have the four; I think that a Committee of three gives a very preponderating influence to the Chairman, and I object to three.

784. Do you find that the additional Member counterpoises the Chairman?—Yes.

785. I understand that your ground for approving of the system of procedure before the Referees, turns mainly upon the question of the brevity and the economy of the proceedings, and not on the question of the comparative justice of the decision?—What I call the uniformity of the proceedings.

786. The advantage of which is the saving of time and money?—The saving of time and money, and getting, I think, the cases decided more upon principle, and therefore, people being able to understand what cases are likely to succeed, and what are not, and to pronounce an opinion upon that point with greater force and greater confidence.

787. You consequently think that an opposition would be frightened away much more readily from the Court of Referees than it would be from a common Committee?—I think that it would, decidedly.

788. Mr. *Bonham-Carter.*] If you had the questions of engineering facts, and details, and estimates settled by the Referees, and the more unmixed questions of policy referred to the Committees, would it at all influence your opinion as to the number of Members on the Committee; do you think that in that case you would rather have five or three?—I do not think that that would affect it.

789. In practice is not the Chairman the main controller of the conduct of the case rather than other Members of the Committee?—Yes; there is no doubt that he is very much so, but of course the Chairman cannot prevent a Member from taking a part if he chooses to do so, or taking a witness into his own hands, as it were, or taking a peculiar view of the case.

790. Am I to understand you to say that in practice, having Chairmen of two or three Courts of Referees who sit continuously, and who have special experience in those matters, less time is likely to be expended than before Committees which consist of Members not of the same experience, and of Chairmen of the number of 10 or 12, whose decisions may not be so clearly anticipated by promoters of Bills?—Certainly, I think so. You must have inexperienced Members upon Committees, or Members sometimes with peculiar views, and so on, who must take their part in the case.

791. Then, in fact, so far as you get rid of the speculative or experimental element in trying a case before a Committee, so far Members and the public are likely to gain by shortening the inquiry?—Certainly, in time and expense.

792. Lord *Robert Cecil.*] Do you think that the Referees are less likely to bend to the alterations in public opinion than any other tribunal?—That was put to me just now, and if great alterations take place in public opinion I do not see why the Referees should not follow those alterations almost as much as Committees of the House.

793. They would be as amenable to the altered state of circumstances as Committees?—It appears to me so. I do not see why they should not.

794. Mr. *Bonham-Carter.*] You propose that there should be only two Courts of Referees?—I thought that two would be enough to conduct the business if it was separated. I was asked how many courts would get through the work, and I said that I thought that two courts could get through the whole.

795. Would it not be fair to conclude that having your courts limited to two, you might have Chairmen who, however able, might take up peculiar views, and that public opinion upon matters of policy might be too much disregarded?—The Chairmen in these courts would not have anything like the same influence as Chairmen of Committees would have, because the courts would be differently composed; in fact every Member of the court would almost be himself a Chairman.

796. I also understood you to state that there would be a great advantage in the Court of Referees over previous inquiries which took place, inasmuch as their decisions would have much greater weight?—No doubt, and I should contemplate that the whole court would enter into the case. As I have before stated, although gentlemen of the highest respectability were named upon the local inquiries, yet they were totally unknown to the House; gentlemen were selected for the purpose and they were sent down at so much a day to make a local inquiry and to make their report upon it.

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797. Did their reports come before the Committee in any other way than as documents with the evidence?—I think that they were returned with the evidence; I do not quite know whether they were accompanied by the evidence taken before the persons who made the inquiry or not; I think that they were.

798. Printed evidence?—Just so.

799. The Reports of the Board of Trade are sent to Committees?—Yes.

800. Have you found that the weight of those Reports is considerable, or is it in your judgment increasing or diminishing?—I have hardly considered that question, but I should say it was rather increasing.

801. Sir *John Shelley*.] I understand you to say that your idea is, that the Referees should sit permanently?—Yes.

802. From the beginning of the year to the end?—Yes; with, of course, proper vacations.

803. When the House was not sitting, in what way would they have any communication with the House?—I do not think it would be necessary for them; I did not propose that they should have communication with the House. As soon as the House sat, they would return the number of Provisional Orders which they had prepared in the meantime.

804. *Chairman*.] In the same way as in the case of Commissioners of Inclosures, and of Piers and Harbours?—Yes.

805. Sir *John Shelley*.] In what way would you have a Bill taken before them with regard to its being read a first time?—I should adopt the same machinery as is adopted at the Board of Trade: when we want a Provisional Order, we deposit it properly drawn, and say, "That is the measure which we propose;" and then the Board of Trade have it before them.

806. As far as that goes, you would take the matter out of the hands of Parliament?—Yes, to some extent; because it would not come before Parliament at all, until the Referees had sanctioned it.

807. Supposing the case to be brought before the Referees in the first instance, and supposing the Referees not to pass it, it need not necessarily come before Parliament at all?—No.

808. That is, in point of fact, opening up, is it not, the question whether Parliament is to preserve to itself the whole jurisdiction of private legislation?—It would enable parties, if they are dissatisfied with the decision of the Referees, to appeal to Parliament, at the risk of having to pay costs.

809. But you do, by the scheme which you propose, open up the whole question of Parliament, preserving to itself its jurisdiction with reference to Private Bills?—Yes, to a considerable extent; but Parliament would still preserve a jurisdiction over them.

810-11. Where a Bill is not read a first time in the House, but goes directly before this permanent Board of Referees, and is considered by them, but not passed, it need not necessarily come before Parliament at all?—If the promoters did not propose to put Parliament in motion, there would be an end of it. If they felt that the decision of the Referees was so strong that they could not get over it, they would not come before Parliament at all: that is the case now.

812. In point of fact, it would be optional with promoters, whether in such a case they would go before Parliament or not?—Yes.

813. Mr. *Ingham*.] That is the jurisdiction which Parliament now has in the case of Provisional Orders; there is no power to originate one where the preliminary step has failed before the Referees?—No. Nothwithstanding the Referees may have reported against a Bill, I would still allow the parties to appeal, taking the risk upon themselves. I would not oust Parliament altogether.

814. Mr. *Ennis*.] Will you go the length of saying that all subsequent inquiry should be taken out of the hands of Parliament, and be vested in the Referees?—Yes.

815. Whether those Referees consist of Members of Parliament or not?—No, I would always have two Members of Parliament upon the Court of Referees.

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816. *Chairman.*] WILL you favour the Committee with your opinion as to the working of the Court of Referees during the present Session?—I may say that I think I am a fair witness on that subject, because I confess I did not anticipate that the experiment would be successful. My opinion is, that it has been as successful as you could possibly expect a new thing to be.

817. Success in what respects?—Success, I believe, in saving time; success, I believe, also, in deciding matters which are, in my opinion, very important to be decided, and which were, in former Sessions, very much lost sight of by Committees. Of course, it is a matter of opinion whether some subjects, which have occupied so much of the time of the Referees, are important or not. My opinion is that they are important, but I think the result, at any rate, has been that assuming those matters would have formed the subject of inquiry in Committee, both expense and time have been really saved by the new system of Referees.

818. What makes you believe that any great time has been saved by the Court of Referees?—I think that anybody who has attended the Court of Referees must see that things are done much more shortly before them than they were done before Committees previous to the establishment of the Court of Referees, before whom the same sort of questions are brought every day. Everybody who appears before them knows perfectly well that, under certain circumstances, they will come to a certain decision, and, therefore, matters that would be argued at great length before different Committees are scarcely argued at all before them. Then there is another matter: the speeches of Counsel are certainly very short. You have a simple statement and a very short speech, and the examination of witnesses, I think, is also much more shortly conducted before the Referees than before Committees.

819. Do you think that the time of the court, or the time of the parties appearing before the court, is saved on the whole?—I think you may say that the time of the parties is saved on the whole. I am taking all the cases together. It may be that in some particular case or cases, more time has been spent in consequence of there being two tribunals; but taking all the Bills that have come before Parliament this Session, I believe it will be found that time to parties and to Committees has been very considerably saved by the institution of the Court of Referees.

820. Upon the whole, are you of opinion that the institution of the Court of Referees has conduced to the saving of expense, or otherwise?—I have no doubt that it has, because saving time is saving expense; but besides that there is no doubt a very considerable saving, both in time and expense, by having only one counsel before the Referees instead of many. If, for instance, great companies appear before a Committee, they are obliged to bring in all the counsel, to whom they have given general retainers, or else they run the risk of forfeiting their retainers, and therefore, where they really only want one counsel, they bring in several to avoid that. In that respect expense has been saved; and there has been also a saving of time, which, as I have said before, is money.

821. Then I understand you to be of opinion that there has been no sacrifice of efficiency in the mode of conducting the examinations before the Referees?—I think quite the contrary.

822. Have you had any experience of difficulties having arisen from the want of definition of the duties of the two tribunals?—Personally I have not; but I know it is said that difficulties have, in some cases, arisen. I think, however, that those difficulties might be met by extending, in some respects, the jurisdiction of the Referees; and, so far as my opinion goes, I would so far extend their jurisdiction as to enable them to inquire into every matter which involves engineering. I would refer all questions of engineering to them, and let them report their opinion on all questions of engineering. For instance, I will take the case of a landowner: if a landowner complains that a railway has been badly laid out because it does unnecessary injury to his property, coming in front of his drawing-room windows, whereas it might have gone behind his house, that, I think, would be a matter quite proper for the Referees to inquire into, it being essentially an engineering matter, though it is one into which they have

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precluded themselves from entering. Moreover, if running powers are sought into a station, or over a line, and if they are objected to, not on the ground of policy, but on the ground of danger, I should say that that is an engineering question, or a question involving the opinion of engineers, and I should let the Referees inquire into such a matter as that.

823. In the case you have just put, how could you divide the inquiry?—Simply in this way; I should not let the Referees report, nor do I think it is essential that they should report, whether running powers ought to be granted or not; but I should allow them to say aye or no whether the granting of the running powers sought for would involve danger.

824. Mr. *Ingham.*] They consider themselves precluded from that now, do they not?—Yes, that is a matter in which as I understand, they will not inquire now, and I do not think that under the Standing Order they could inquire into it; at any rate, in practice, they have not done so.

825. *Chairman.*] Have you been engaged in any of those cases in which questions have arisen before Committees, whether they should or should not go into points that have been investigated by the Court of Referees?—No, not in any case in which I have been personally concerned this Session; I have found in every case that where there has been a report made by the Referees against a Bill, that report has been considered final by the Committee, which I think has been considered a great advantage.

826. Do you think it is quite possible so to define the duties of the Referees and of the Committees, that their jurisdiction should not clash in any way whatever?—I think so; I quite agree with Mr. Rodwell as to that. I understood him to express an opinion to that effect, and I quite agree with him.

827. Upon what circumstances is your opinion founded, that the general inquiry before Committees of the House of Commons has been shorter this Session than it has been in others?—Merely upon this; that in the cases in which I have been engaged, I certainly have observed that the questions have been very shortly disposed of, and assuming that the same questions would have been raised before the Committee that were raised before the Referees, they are not raised twice over; and I am confident that any question raised before the Referees, is decided much more quickly by them than it would be by the Committee.

828. Mr. *Milner Gibson.*] You say, assuming the same questions would have been raised; but are they in fact raised?—A new tribunal was established this Session for the consideration of particular matters; the opponents of a Bill were invited to a particular class of opposition before that new tribunal; and I think advantage has been taken of it, and more points have been made, with regard to engineering, than were made formerly; many Bills have been thrown out this Session on the ground of defective estimates, whereas, according to my experience of the practice in former Sessions, it was a very rare thing for a Bill to be thrown out by a Committee on the estimates; I think that where the estimate is deficient the Bill should be thrown out; the estimate affects the amount of deposit directly, and if there are any *bonâ fide* shareholders every man who has taken a share, upon the faith of a certain sum being sufficient to make the line, has been deceived if the estimate is found to be insufficient.

829. Mr. *Bonham-Carter.*] Does it not also affect the question of the line being made within the time?—Yes.

830. And does it not further tend to keep persons, whose property is taken, in constant uncertainty whether the undertaking will be carried through or not?—Yes; I think you will find that the result of the special inquiry before the Referees, both as regards estimates and as regards engineering details, will be this; that in future Sessions you will have estimates much more carefully prepared, and lines much more carefully laid out, than ever they have been before; and the result will be, that you will not have such perpetual applications for power to raise further sums of money, by the issue of preference shares, and not so many Bills for deviations of lines and levels, which now frequently result from defective or hasty engineering in the first instance.

831. Mr. *Milner Gibson.*] How do the Referees arrive at strict proof of the accuracy of an estimate?—Of course that is, as all these things are, a matter of opinion deduced from the evidence that is given by engineers on both sides; but the

the Referees are very well able to form an opinion on such subjects, and they are better able to do so than Members of a Committee are, because their attention is constantly directed to such matters; they know, for instance, by the evidence of all the engineers who come before them, what, under ordinary circumstances, is a fair sum to put down for earthwork or for going over treacherous ground or ground liable to slip; they know what is a fair price to be paid for masonry and so on; it is quite a mistake to suppose that the Referees have been only deciding on matters of fact; they have received evidence, and have given their opinion upon that evidence.

832. Mr. *Bonham-Carter.*] I think you have had some acquaintance with the practice before Road Committees?—Some, but not a great deal.

833. Taking the analogy of a Road Committee, has the effect of the practice before that tribunal been to shorten the proceedings?—Yes; I cannot say that I have had any large experience in the conduct of Bills before Road Committees, but I know enough of them to be aware that the same members are appointed every year, and that they do their work admirably in consequence, but they have not had in general to decide on questions of policy, and I think it is important to consider that when you are talking of establishing a permanent tribunal.

834. Is not the analogy of the experience of Road Committees in favour of a Committee which deals with facts of greater scope and of vital importance?—Certainly.

835. Sir *John Shelley.*] What experience have the Referees which those Members who act as Chairmen of Private Bill Committees throughout the Session have not?—I do not know that I can say they have much more experience than those Members have who have acted for years as Chairmen of Railway Committees; but those Chairmen are always acting with other Members of the Committee who have not had the same amount of experience. Now, all the Members of the Court of Referees are, so to speak, skilled in these matters from constant practice and by hearing evidence perpetually upon the same subject.

836. Do you consider that the Members of a Committee on a Private Bill are generally led very much by the Chairman?—We really know very little of what goes on in Committees; I never inquire myself how a Committee has divided, and I do not know that I should be told if I did inquire; but we know as a fact that Committees do divide, and that occasionally the Chairman is overruled. So far as I have been able to observe, I should say that the opinion of the Chairman has great weight; but I believe that he is very often controlled by the other Members of the Committee.

837. As far as the Chairman himself is concerned, he would have the same means of forming an opinion upon all the points to which you have alluded, such as the cost of earthworks, the price of land, and other engineering points, as the Referees themselves, would he not?—That would depend on whether he is an experienced Chairman or not; if he has been in the habit of sitting on Railway Committees for many years I think it would be so, but he may be a new Chairman altogether; whereas the Referees, so far as they consist of Members of Parliament, have had the largest amount of experience as Chairmen of Railway Committees; I should say as large an experience as any, perhaps it would not be right to say the largest.

838. Do you think it important that there should be a Member of Parliament on the Court?—Yes, I think that it is most important; I am very confident of this, that if you had not in this Session, in trying this experiment, had Members of Parliament on each Court of Referees, you would not have found that Committees would have paid the same respect that they have paid to their decisions, nor would the public have been so well satisfied with them as they are.

839. Do you agree with the last witness (Mr. Gregory), with regard to the permanent establishment of a court which, barring holidays, should sit from January to December?—That was a suggestion which came to me in this room for the first time; but I must say, that there is not one single word that Mr. Gregory has said in which I agree with him; my experience has been as large as his; and I disagree with him in every word he has said.

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840. *Chairman.*] The principal suggestion was this; that a large number of Bills should be dealt with under a system of Provisional Orders, instead of by Committees; should you object to Parliamentary Bills being submitted to that system?—Parliament has already gone a certain way; that is a question for Parliament to decide; it has been already decided that in certain unimportant cases proceedings by Provisional Order, instead of by a Bill, shall be allowed; but I myself do not think it advisable to extend that any further; I do not know to what cases you would extend it, unless Parliament is prepared to part with its jurisdiction altogether.

841. Mr. *Bonham-Carter.*] Has Parliament parted with its jurisdiction at all; was there no opposition raised in this Session in the case of piers and harbours, for instance?—I am not aware of any; I think that, practically, Parliament does part with its jurisdiction.

842. *Chairman.*] Are you aware of several individual cases having occurred in this Session in which Provisional Bills have been opposed and sent to Committees?—I have not been personally concerned in any, but I am aware that there have been some oppositions; I have seen it in the Votes; but with regard to Mr. Gregory's plan, as I understand it, it is this: it is not a new idea; the only novelty in it is this, that instead of the old suggestion of having a Board to decide on these matters, he proposes to have the Referees; that, so far as I can understand it, is the only novelty in his suggestion. If it is important, as I think it is, to have Members of Parliament members of these Courts of Referees, I do not exactly know how you are to procure those Members during six or seven months of the year, as Mr. Gregory suggests; then, again, if they are to sit six or seven months in the year, I do not know how you are going to manage your Standing Orders; of course, before this permanent tribunal can sit you must have plans and sections deposited, even if you get rid of the Bill; (Mr. Gregory proposes to substitute a Provisonal Order for a Bill;) you must have notices given; you must have money deposited, and all the forms required by the Standing Orders gone through. Now, when is that to be done? You can only have notices given and plans deposited in the autumn, the reason for which, I suppose, is that you cannot have surveys going on when the ground is covered with crops; the only time for it is the time which is now selected by the Standing Orders; and if that time is adhered to, how are they to sit for six or seven months in the year? If they do that, it will happen that in some cases, where the plans have been deposited in the autumn, you will not get your Bill until, not the next year, but the year after that. The scheme seems to me to be utterly unworkable; there is also another objection: if you are to alter the time for giving notices, there will be a great inconvenience in that; great companies, and those whose duty it is to watch these things, know very well that if they watch during October and November that is sufficient, whereas they would have to watch all through the year, and would never be safe; I may say also as to a permanent tribunal, such as that which Mr. Gregory suggests, the effect would be to give the Referees jurisdiction not only over those matters over which they have jurisdiction now, but also over all questions of policy, for they are to decide the whole thing.

843. *Chairman.*] What do you say to that?—I think that there is precisely the same objection to that that has always been felt with regard to a department of the Government, that it is not elastic as Committees are, and that you have the same tribunal to decide these matters, and that it is of no use appealing. Suppose they say it is not expedient to pass a Bill this year, what is the use of going next year to the same tribunal? Circumstances are not likely to have altered sufficiently to induce them to change their opinion. You are appealing from themselves to themselves; whereas, if you have been refused your Bill before Parliament, and apply a second time, you come before a different Committee, and appeal to another body. At any rate, if it is objectionable, as it always has been considered to be by most people, to have these matters decided by a Government Department, precisely the same objection must exist to having them decided by a permanent court.

844. Sir *John Shelley.*] Does not that apply to the whole question?—No, I think

think not; because I do not think that the Referees have been deciding on any question involving public policy, nor would I recommend that they should be allowed to do so. The questions that have been decided by them are questions which they are peculiarly qualified to decide, namely, whether junctions are bad junctions, and so on.

845. What would you say with regard to the question of amalgamations?—Those are purely questions of policy.

846. Those questions you would not have to go before the Referees at all?—Certainly not, and they do not now.

847. Nor running powers between one Company and another?—I would only allow them to go into such questions so far as to inquire whether the running powers sought would involve danger or not.

848. Is there not another question, the question of public policy, in that very question of giving running powers to one company over the line of another?—Very largely, and that I would leave to the Committee in all cases.

849. You would not let the Referees decide that?—Certainly not.

850. Then if I understand you, you would curtail the inquiry of the Referees and confine it simply to questions of engineering and estimates?—I would, and also to questions of *locus standi*, their decisions upon which questions, are I believe universally admitted to have been advantageous.

851. To what extent would you carry that question of *locus standi*. Would you admit that a large company had a *locus standi* against another company because the new company was coming in competition with them?—That would be a question for the Referees to determine.

852. Is not the question of competition just one of those questions of public policy which is most important?—No doubt, but the Referees have been determining those questions. The old Standing Order as to competition is, that Committees may admit people to be heard on the ground of competition, if they think fit. It is now optional with the Referees instead of with Committees.

853. I understand you to say that the public-policy question should go before Committees, and should not be reserved for the Referees; do you or do you not consider that that subject of public policy, namely, competition, should be referred to the Referees?—I say that that is a question which I would leave to the Referees, and it is the only question of policy that I would leave to them. I think that its having been left to them has worked well. They are guided by certain rules, and under certain circumstances they have said the competition is of such a nature as induces them to say that the parties ought not to be heard before the Committee. The question of policy comes before the Committee. The Referees do not determine on the question whether competition shall, or shall not, be established. All they determine is whether there is reasonable ground for saying that there is competition, that is all; it is not exactly a question of public policy that they determine there.

854. Did I not understand you to say, that your experience this Session has amounted to this, that there is scarcely an instance of a Committee deciding, or even going into questions after they have been decided by the Referees?—No.

855. Suppose the case of a new line started against an existing Company, and the Referees deciding against it, would not that be completely settling that question of public policy?—Yes.

856. And the question of public policy would not in that case come before the Committee?—No; but that would be upon this ground, that the Referees would have decided that there was really nothing to come before them; that in fact, the competition did not exist.

857. *Chairman.*] The Referees being presided over by a Member of the House of Commons, it is suggested that he would have the same influences acting upon him as any Chairman of a Committee would have acting upon him; there would be no difference in that respect?—No, not any.

858. The responsibility to the House would be exactly the same in both cases?—Yes.

859. To parties coming before the two tribunals, one the Committee, and the other the Court of Referees, must it not be an advantage if they have some previous knowledge of the principles upon which questions of *locus standi* are to be regulated?—I think it is very important.

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860. And it would be a very important thing to all parties if they could get some definite idea of the principles upon which competition was to be allowed, and parties were permitted to appear before Committees to oppose?—Yes; and they have got that by the decisions this Session.

861. In your opinion, has that been an advantage to everybody?—Yes; and there is this further advantage, that formerly in this House, and still in the House of Lords, where you had questions of *locus standi* decided by the Committee, parties were put to all the expense of bringing up their witnesses, and preparing for a contest, when after all they might be told to walk out of the room, but now that is all avoided.

862. In the case which was put to you just now, by the Honourable Member for Westminster, it would be a great saving of expense to all parties concerned to go before the Referees, in preference to going before a Committee, owing to the great uncertainty that there would be before the Committee?—No doubt.

863. And that expense would be jointly saved between the opponents and promoters of any scheme that went before the Committee?—Yes; but when I say there would be a great saving of expense, I ought to qualify that in this way: that the great saving of expense is where the *locus standi* is refused; where it is allowed, I do not know that I can say there would be any great saving of expense, because you come before a Committee prepared to go on, and the question is raised and decided there. There is a great saving of expense when the *locus standi* is refused.

864. Is there not a saving of expense also in the mode in which the question is argued before the Referees and before Committees?—I think the argument is shorter, as all other things are shorter, before the Referees, and there is but one counsel on each side.

865. What is your opinion with regard to the rule of the Referees who allow one counsel only to be heard on each side?—I think I have already said that I think it has worked well, and it has saved expense.

866. Are you quite sure that it does save expense to the parties?—Yes, I have no doubt of it, taking it as a whole. Cases I know have been mentioned in which a very high fee has been in a very extraordinary case, and very properly given, to a counsel who has devoted his whole time for a long period to one particular case. Those instances, however, are rare. In the ordinary run of cases you pay the ordinary fee, and there is a considerable saving in that respect.

867. Have you found any difficulty in obtaining counsel to conduct cases before the Referees?—No; you can always get counsel, though not perhaps the one you would like to have; but after all you get your work very well done; the only difficulty is to get a counsel and keep him.

868. If the Court of Referees is still retained by the House, would you advise that the Standing Order, with regard to one counsel, should be maintained?—I certainly think that if saving expense is the object, it is desirable to do so.

869. Sir *John Shelley*.] And time also?—Yes, I think so, for this reason: a great deal of time, no doubt, is wasted by a change of counsel. A man who comes in to cross-examine does not know what questions have been asked, and, of course, the effect of that is to waste time.

870. *Chairman*.] Have you any other suggestion to make to the Committee?—Yes; perhaps I may be allowed to mention one or two things that occur to me with reference to Mr. Rodwell's evidence. I did not quite agree with him in one thing: he suggested that you should begin the inquiry before the Referees at an earlier period than you do now, and that you should have Bills referred to them after the first reading. Now I cannot see what good end would be attained by that. I think that it would lead occasionally to very great inconvenience, and, in many cases, to additional expense. It would also, sometimes, I think, be an injustice to opponents. At present they have only 10 days after the first reading to petition. Now, if any good is to be done by this suggestion, they would have to come before the Referees immediately after the first reading; and if they do come before them, they must come with something like a statement, either a petition or something analogous to it, and all that would be extra; it would have to be prepared, in addition

addition to the ordinary petition, and that of course would increase the expense. The Referees, even under all the disadvantage of this Session, with a number of Bills which I hope will not be continued in other Sessions, have got through their business in such a way as not on any occasion, I believe, to have delayed a Committee. You have found that this experiment, which is a new one, has worked well; and if you alter the system materially, I think you will run the risk of spoiling it. I think it is much better to allow the Referees to regulate their own proceedings by rules of Court. That, I think, is by far the best thing you can do.

871. You say that the Court of Referees, during the present Session, has not interfered with or delayed Committees; are you quite clear upon that point?—I dare say it may have been said occasionally, or perhaps often, that such a Bill has not been before the Referees; and the House has been guided in the appointment of Committees, no doubt, by the progress made by the Referees; but so far as I know, when a Committee has once been appointed, the Referees have kept up with the business.

872. Are you aware whether there have been any instances in which a Committee has been obliged to adjourn in consequence of the Referees not having reported?—There may have been such cases; but I have not heard of them; I do not think that they have been numerous. At all events, I have heard no complaints upon the subject.

873. Have you any other suggestions to make to the Committee?—Yes. It has occurred to me more than once, that the most useful thing you could do, in the way of saving expense and time, would be, if possible, to induce the other House to make the Referees officers of theirs as well as officers of the House of Commons. I do not think that the same objection would probably be felt to that that has been felt to the often repeated suggestion of having joint Committees. The examiners, in the first instance, were only officers of the House of Commons, the House of Lords refusing for some time to join in the appointment of examiners; but afterwards they gave that up, and the examiners are now joint officers of both Houses. That system has worked extremely well, and if the Referees are to decide, not on matters of policy, but on matters of fact, I cannot see why the House of Lords, if they had a voice in their appointment, should not consent to make them the joint officers of both Houses. If that were done, of course the effect would be to save an enormous amount of time. If you have a decision against the sufficiency of an estimate, that case will not come before the House of Lords, because the House of Commons has stopped it; but if such a case were to get through the House of Commons you would have the matter discussed all over again in the House of Lords; or you may have an estimate which, although it has been attacked, the Referees have decided to be sufficient, and yet its sufficiency may be attacked over again in the House of Lords.

874. Sir *John Shelley*.] If you admit that the Referees are to have any power of deciding on matters of public policy, the case of competition is not a matter of fact, but a matter of opinion?—I have never intended to say that they should have such a power; I have always guarded myself against saying it. I have said that I would not give them any jurisdiction in matters of policy.

875. Except as to competition?—But I do not admit that they have any jurisdiction with regard to competition. Their only jurisdiction is this: that where a question of *locus standi* on the ground of competition is brought before them, they have the power of saying whether there is, in fact, competition; and if they say that there is in fact competition, and that it is of a reasonable nature, and that therefore the parties ought to be allowed to be heard, the whole question of policy is submitted to the Committee on the Bill.

876. You say, "If the competition is of a reasonable nature;" is not that matter of opinion and not matter of fact?—No, because you may have a most unreasonable line; a line having no sort of connection with another, and utterly remote from it. It is manifest upon the map that there is no competition in such a case as that, and it would be a mere waste of time to raise such a question before the Committee. The matter goes before the Referees, and they say you ought not to be allowed even to approach the Committee.

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877. And *vice versa*, if a line should be started, and it should be opposed by a strong company on the ground of competition, you would say the question should be decided by the Referees?—Certainly.

878. *Chairman.*] Have you had sufficient experience of Bills sent to the Lords from the Commons to be able to say whether the examination that has taken place before the Court of Referees has had any influence?—I have not heard their decisions mentioned in the House of Lords in any case in which I have been concerned; but I imagine that the House of Lords would not listen to the decision of the Referees; they would merely take them as statements as counsel that the Referees had decided so and so, and they would consider themselves bound to receive the whole of the evidence over again If the estimate has been held sufficient by the Referees the whole of the objections to it may be revived and gone into over again, and so may engineering objections of all sorts which the Referees have overruled.

879. What is the course that has been taken this Session with regard to Bills coming from the House of Lords?—You petition against them, just as if they had originated in this House, and indorse your petition; and if you do the matter goes before the Referees, who consider it as if it had not been before the House of Lords at all.

Martis, 13° *die Junii*, 1865.

MEMBERS PRESENT.

Mr. Edward P. Bouverie.	Mr. Milner Gibson.
Mr. Bonham-Carter.	Mr. Gathorne Hardy.
Lord Robert Cecil.	Mr. Lowe.
Mr. Ennis.	Colonel Wilson Patten.

COLONEL WILSON PATTEN IN THE CHAIR.

Thomas Elliot Harrison, Esq., called in; and Examined.

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880. *Chairman.*] I BELIEVE that you are an Engineer?—I am.

881. And you have been in attendance, in your profession, before Committees of the House, and also before the Court of Referees?—Yes; I have been a great deal before the Court of Referees this year, and before Committees of the House for the last 30 years or more.

882. Will you favour the Committee with your opinion as to the working of the Court of Referees, as regards your profession?—I will state, in the first place, that my own experience of it has been, that comparing it with an ordinary Committee of the House, beyond any question it is much more like a judicial court than a Committee, and I think that the Referees have taken up questions which, not only as an engineer, but as one having had the practical working of railways, I look upon as being of vital importance, and which, I am bound to say, I have hardly ever been able to get an ordinary Committee of the House to go into, at any rate, for a number of years.

883. Will you describe what those points are?—I will take, in the first place, the question of estimates. From my own experience, being consulting engineer in a great number of cases, I am quite aware of the mode in which many of those estimates are originally framed, and I look upon it as one of the most difficult questions which the Referees have to go into and decide, and upon which nothing but constant attention to the subject will enable any Committee to come to a correct decision. I see quite well the immense difference which exists in the estimates first of all as taken by engineers, and their different opinions upon estimates as submitted to Committees. That clearly arises from two distinct causes; in the first place, engineers estimate works in a different form, and of a different character; and, in the next place, there is very often the question of the difference of the value of work. Where I myself have been engaged by an opposing party to examine into the sufficiency of a deposited estimate, I have always felt that it was not just to take the estimate which I might myself, as an engineer, make, and to take the works in the mode in which I should execute them, but that I ought to look at them as if they were works which could be done, perhaps, in a more cheap manner, and, indeed, in the cheapest possible manner; and if when I have done that, I have found that an estimate is still exceedingly deficient, I have then had no hesitation at all in appearing before the Referees in opposition to that estimate. I have constantly found a difference in the views of engineers upon estimates, to the extent of 15 or 20 per cent., and if I found an estimate 15 or 20 per cent. below what my own views might be, and what I myself should put it at, I still do not consider that I should be justified in saying that the works could not be done for the amount of the estimate. If you go a great deal beyond that, which is frequently the case, then I should do it. It is a matter of great difficulty for

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any Committee who have not constantly questions of prices and the modes of doing work before them to form a correct judgment of an estimate, and the consequence is, that in my experience before an ordinary Committee, you cannot get a counsel who will go into it. I have constantly heard counsel saying, "We cannot possibly go into all these details, and moreover, the Committee will not listen to them." I will just hand to the Committee, as an illustration of the difference of views of contractors, the result of two contracts which I have let, one on the 17th of March of this year, and the other on the 28th of April; these contracts being by public tender, and the persons tendering having the whole of the quantities given and guaranteed to them under the specification. In the first case, the tenders varied from 151,000 *l.* to 215,000 *l.*, making a difference of 42 per cent.; and in the second case the tenders varied from 186,000 *l.* to 251,000 *l.*, being a difference of 35 per cent. That represents the difference of the views of contractors of the highest eminence as to the value of work where they have actual quantities guaranteed to them, and the work specified; therefore I hold that it is a great advantage having a court who are accustomed to go into these questions, and who, from their constant experience of the views of parties who are brought before them, are enabled to form a correct judgment upon that which is a most important question. I will hand this paper in. I may state that in this list I have put in red my own estimate of the works, and have mentioned the case in which the tender was accepted; but this is quite a fair representation of what occurs continually in letting works of great magnitude.

[*The Witness delivered in the following Paper.*]

Tenders for Team Valley Railway, 17 March 1865.		Tenders for the Hull and Doncaster Branch, 28 April 1865.	
£.		£.	
151,354		186,310	
155,200		203,000	
163,761	Tender accepted.	203,834	Tender accepted.
164,726	*Engineers' Estimate.*	204,983	
166,045		207,776	
167,198		208,273	
173,140		*209,000*	*Engineer's Estimate.*
174,900		213,000	
184,595		217,710	
197,000		220,552	
197,542		224,000	
198,149		225,000	
215,400		251,000	
Difference between the highest and lowest, 64,046 *l.* = 42 per cent. in excess of lowest.		Difference between the highest and lowest, 65,000 *l.* = 35 per cent. in excess of lowest.	

884. Do you attach great importance to the estimate in judging of a railway? —I do, because I have even known cases of old companies in which they have said, "If this can be done for a certain amount, it is worth doing," and I have known cases in which engineers have allowed themselves to be screwed down in prices. I also think that there is another point, there seems to be no absolute rule laid down to guide engineers, as to what they are to include in their estimate. For instance, I happened to assist Mr. Robert Stephenson in making the original estimate for the London and Birmingham Railway. I made out

out the whole of the details for it myself. At that time the idea was, that a railway was a public highway, and that parties were to provide their own engines and stock, their own stations, works, and conveniences, and that they did not belong to the railway company, and therefore all station works, good stations particularly, and the necessary accommodation were omitted from the estimate; and the practice at the present moment is quite unsettled as between engineers whether to include those things or not in their estimates. I also think that as a question of saving of expense to parties in a great number of cases in which I have been engaged this year before the Court of Referees, if the estimate had been originally deposited in more detail, all the expense of coming before the court would have been limited, perhaps, to a particular point. For instance, there are a number of cases in which the engineering works have come out as nearly as possible the same on both sides, and the land has been greatly different, and occasionally the reverse. I, therefore, think, that if the Standing Order were amended so as to require that when you deposit the estimate you should deposit it in the same detail in which an engineer is bound to submit it eventually to the Referees, parties would have an opportunity of testing it, and I am quite satisfied, from my experience of this year, that there are numbers of cases in which no opposition would have arisen upon estimate excepting as to small points in it, thus saving expense to the parties.

885. Looking at the matter in a Parliamentary point of view as regards the Houses of Parliament who have to form the tribunal to decide these cases, what is the exact importance which you attach to an estimate, not as regards the community, but as regards the tribunal which is to judge whether the work shall be carried out or not?—Of course, when you come before a Committee, I am quite aware that they do not attach any very great importance to the question of the estimate; in fact, when it now comes before them, if the estimate has been decided to be sufficient, in all probability the amount of the estimate hardly ever comes before them at all.

886. What is your own opinion of the importance of an estimate in a Parliamentary point of view?—I think that if Parliament wishes to know the facts, and that the public should know the facts upon which they are asked to subscribe to works, it is exceedingly important that those facts should be investigated, and that the public should have that security that these figures really have some reference to what the works are likely to cost. It is not an unusual thing to find companies, from deficient estimates, having to come to Parliament again, and, in some cases, two or three times for additional money.

887. For the same works?—For exactly the same works. I have known it occur twice for exactly the same works, and from the fact of the estimates having been originally deficient; therefore, as regards Parliamentary work, the system to which I am referring would render it unnecessary for Parliament to go a second time into those questions. As regards the general public, they would have a greater reliance on the estimates, from the fact that the Referees investigated these matters more strictly than had hitherto been done.

888. The deposit is proportionate to the amount of the estimate?—Yes; but I do not think that the deposit amounts to a very large additional sum. If you take even a work costing 200,000 *l.* or 300,000 *l.*, and if the engineer is 20 or 25 per cent. deficient in his estimate, if the parties have made a deposit on the one sum they can make it on the other.

889. As regards engineering questions before the Court of Referees, do you see any difficulty in so defining the duty of the Court of Referees that it shall not clash with the investigation which takes place before Committees?—I think not. Whilst on the subject of engineering, one of the points which has taken up a great deal of the attention of the Referees in the present Session, has been the question of engineering, purely as regards the junctions between one railway and another. I believe that in many cases those junctions have heretofore hardly been considered at all by engineers when they have first laid them out. I am quite satisfied that in many cases it is so. According to my own experience, having had the management and working of a railway as well as the engineering of railways, it is one of the most important questions, as affecting the question of safety and working, which came before the Referees in the shape of engineering, and I would suggest that for the purpose not only of getting better engineering, but of enabling the Referees to decide questions more easily, your

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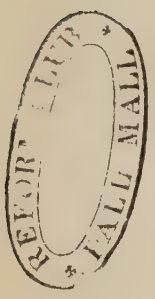
Standing Orders should require that whenever a junction is formed with an existing line the promoters should give the inclinations of the line at the point of junction, and you would then have at once the data for considering whether that is a right and proper junction or not; it would be a trifling expense to the promoters of the Bill, and the engineer, knowing that he had to make the deposit, would himself be obliged to obtain that information which I am quite sure, engineers often do not think of obtaining at the present moment.



890. You say that you would oblige the promoters to give the inclination of the line at the point of junction; is not that now required?—I mean of the existing line. Frequently a junction is formed with a line which may itself be upon an exceedingly bad gradient, and the mere question of making that section and depositing it, would not in each case be a cost of 5 *l.* to the promoters of the Bill, and I feel that it would have a double effect. First of all, that of making the engineer of the line pay a little more attention to it, and also enabling the parties at once to have those facts before them. There are many cases in which those junctions are laid down upon the original plans, in a most objectional manner, and unnecessarily so.

891. Mr. *Bonham-Carter.*] Would you have the inclination given within the whole limits of deviation?—More than that. I think that the extent to which it ought to go would be, in all probability, from a quarter to half a mile; half a mile would be better; and the actual time in taking the levels of that existing line, is merely the time occupied in taking a site with the level, and it would not occupy a surveyor above an hour; and I am quite sure that if the engineer knew the facts, he would at once see whether he was going to make a junction which would be objectionable or not. I think also that upon the question of petitions, which are presented against Bills to go to the Referees, it would be exceedingly desirable if by Standing Orders, the opponents of a Bill were required to state in detail, or sufficient detail, to enable the parties to meet the objection; the real points to which they took objection. As it is now, it is a sort of general allegation, that the engineering is defective, and until you come before the Court of Referees, the promoters of a Bill really do not know to what point the objection is likely to be taken, and I think that it is only justice to them, that in the petition the opponents should set forth in detail the points to which they do take objection; I think also that the powers of the Referees in some points are too limited.

892. *Chairman.*] In what way would you give them increased power?—For instance, at the present moment they are limited to any question which arises within the limits of deviation shown upon the plan; if it is suggested that a better line might be taken in a different direction, if that goes at all beyond the limits shown upon the plan, it has been the practice in the present Session that the Referees are precluded from going into it.

893. Is it not your experience, that of late years in Committees also there has been a great discouragement to entertaining alternative lines of which they have not had the plans and sections before them?—Clearly, and I know cases where that is rather a hardship; I will take a case which occurred a few years ago, in which the South Western Railway Company opposed a line laid out to go through the property of Mr. Marsh, who is a Member of this House, and it was shown quite clearly by plan and section that a line which was shorter and less expensive, and with better gradients and better curves, could have been taken, and so have avoided this injury altogether. The Bill was thrown out. In the case of a landowner, taking a similar case to that, if in his petition he sets forth that by taking a different line the injury to his property could be avoided, I think that that is a legitimate and proper case to be taken up by the Referees. At the same time, I think that the opponents ought, in their petition, clearly to define the exact line which it is suggested would obviate those difficulties, so that the promoters of the Bill might ascertain the facts, and they might possibly by a supplementary deposit have the means of avoiding the objection. That is one of the points upon which in many cases ultimate expense would be saved to landowners and to all parties, if the Referees were authorised to take up such a case, provided that it is clearly and distinctly defined in the petition what the line is.

894. Mr. *Bonham-Carter.*] Would you render it necessary that a landowner should

should deposit plans and sections?—I think that that, perhaps, would be putting a landowner to an expense which would be unnecessary; but I think that he might give a clear description of the points where the line should go off, and terminate, and the route which it should take, quite sufficiently to define the line, avoiding the necessity of his going to the expense of depositing a plan.

895. Would you limit that to the case which you have mentioned of a landowner who, for the sake of his property, wishes to show that the line could be beneficially modified through that property?—I should not confine it to that. I think that there are many cases, and some have come within my own experience in this Session, in which it would have become a necessity for the Committee to have gone into those very questions in which a much better line generally, not affecting a landowner, but a much better line for general purposes, might have been adopted. I think that if it could be shown by any parties who might be opponents of a Bill that the line was an error, and that they could define distinctly a better line, it would be desirable that the Referees should have the power of going into such a question, and seeing whether that line was really a better line than the one which had been proposed.

896. You have used the general term "opponents;" you have also said that it would be a considerable expense to a landowner, and one which he ought not to be called upon to incur to deposit plans and sections. In the case of an opposing Company, which might call for a very considerable length of alternative line, would you not, unless you obliged the opponents positively to put forward something very defined by plan and section, open up a still wider question before the Referees, which would occupy a great deal of time?—If you went to that extent, I think that you might do so, if it were a very large deviation from the line, but there is nothing at all to prevent any parties from opening up such a question before the Committee. In a petition against a Bill, which a Committee will hear, and will go into, you may set up, "This line is a mistake, it might be made five miles shorter, and much better." That is a case which the Committee, according to my experience, are bound to take up and do take up. I think that that is a question which the Referees might take up; it is not a case which often occurs.

897. Is it not the fact that the practice of the Committees with regard to taking up that question is by no means determined?—If it is only clearly defined upon the petition, I think that they take it up.

898. Do you think that the practice of the Referees could call for details in the petition which would enable them to judge how much should be required in the way of information by plans and sections?—I will suppose that which is the most likely case to occur, namely, that an existing railway company were the parties who presented such a petition, I think that it would be no hardship at all upon them to call upon them to deposit such plans as clearly defined what was in their petition; but as regards a landowner, I think that perhaps you would be putting a landowner to an expense, which would be hardly fair upon him.

899. Do you think that in practice the Referees could at a preliminary period define in what cases such details should be given, and in what cases they should not?—I think that there would be no difficulty in a landowner not being obliged to do it; but in the case of a railway company, I think that there would be no hesitation in throwing the obligation upon them.

900. Do you not find that landowners ostensibly appear, when in fact the real opponent is a company?—That is very often the case, undoubtedly, and the reason for that is that many landowners having strong objections to a line, do not like to incur the expense of opposing it. I do not know whether the Bill which is now passing through Parliament, which is to settle the question of payment for their expenses, may alter that view; but I know many cases in which landowners, with the strongest possible objections to a line, do not like to incur the expense of an opposition to it.

901. Take a valley line which follows the curves of a valley or a river, and suppose that those interested in the country came to the conclusion that a tunnel cutting of the sinuosity was very desirable, and that the line would be made more direct, or less expensive, how would you enable those parties to come before the Referees without opening a very wide question which would defeat the suggested saving of time?—Of course, the question of saving of time before the

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Referees is one thing, and the question of saving of time before Committees is another. I think that it would be just in the nature of a landowner's *bonâ fide* opposition, and if all the inhabitants of a valley united together to oppose a Bill on the ground of the line not being the best, they perhaps might not object to incur the expense.

902. Do you then think that, practically, it is desirable that the Referees should have an opportunity of considering improvements upon lines, and that it would be possible for them in the practice laid down to indicate to parties coming before them how much they should produce?—I think perfectly so.

903. *Chairman.*] You have stated your own opinion with regard to the working of the Court of Referees; have you been in communication with any members of your own profession upon that subject?—I have.

904. What should you say is the general impression upon it?—I think that the general impression is, that the establishment of the Court of Referees will lead to much better engineering; and to much more care being taken, both in the preparation of estimates and in the preparation of plans; and that the labour of the Court of Referees in another Session will be much lighter than it has been during the present Session; and I am quite satisfied, from my own experience of plans which have come before me and which I have examined, that the experience in the present Session of the views of the Referees will induce engineers to take much more pains upon many important questions. I myself rather perhaps go even a little beyond that, and look to the Court of Referees, in their present condition, as being the beginning, but not by any means the end, of the advantages which will result in the course of a few years from the establishment of that court; and I think at the same time that the decisions of the court upon questions of estimate, and questions of gradients, and questions of junctions, and matters of that kind, should be not only decisive in their mode of giving them in their report, but should be held to be so by Committees when they come before them; or else, if the question is at all reopened, it will impair the usefulness of the tribunal.

905. As an engineer, how would you deal with a case of this sort, which I believe is one which has occurred more than once before the Court of Referees and Committees of the House; the Referees report that an estimate is unsatisfactory, and that report goes before a Committee of the House, is it your opinion that that decree of the Court of Referees should be conclusive against the promoters of the Bill, or that the Committee should have the power of considering it, in conjunction with the merits of the case?—According to my own view of the matter, I should say that there is no reason whatever why an engineer should deposit an insufficient estimate; and, therefore, I hold that if he does so, it is from want of attention to the subject at the time when he makes his estimate, and that the decision of the Referees ought to be conclusive against him.

906. In the paper which you have delivered in, I observe that the contractors, in contracting for work, have varied in the tenders which they have given in, and which they formed, according to the best of their judgment, from 186,000 *l.* to 251,000 *l.*?—Yes.

907. If there is that variance in the opinion of contractors, ought not there also to be a latitude in the judgment of the Referees?—I say that that is a point upon which it is quite clear that the Referees, who sit day by day, will be able, from their experience, to form a very decided opinion. As I have said, I should not oppose any estimate, if I found it 15 to 20 per cent. less than I should make it out myself.

908. Do you think that the Referees, experienced as they may be, would have greater experience than the contractors, who are putting in a tender of this kind, which is to bind them for the performance of the work?—Of course, the views of the contractors are not always governed by the amount for which the work can be done. Some of them may be a little more greedy than others in the amount of profit which they mean to make upon the work. At the same time, I think that it is the most difficult question, which the Referees have to decide.

909. But under the circumstances you still are prepared to recommend that the decision of the Referees that an estimate is unsatisfactory should be conclusive against the party promoting the Bill?—Certainly. I think that the views of the Referees would always lean, as far as I can judge from the present experience

experience, towards the promoters, and that such a decision would only be given against them in extreme cases, some of which no doubt do occasionally occur, in which the estimate is evidently and obviously insufficient for the work.

910. Speaking as an engineer yourself, and looking to the difference of opinion upon the amount of the tenders which you have put in, should you not think it preferable that the Referees should be bound to state to what amount they thought the estimate deficient?—I think that if they found that there was merely the question of the difference of a few thousand pounds, or say 3 or 4 or 5 per cent. upon the estimate they would hardly give a decision against a Bill upon such a ground, and that it is only when an estimate was largely deficient that they would do so. At the same time I think that their decision ought to be given absolutely, that they consider the estimate insufficient for the work, and upon such a decided opinion my view would be, that the question should not be re-opened.

911. You think that the Referees should be obliged to say, if they thought so, that the estimate was so unsatisfactory that it was not advisable that that work should proceed?—Certainly, that is the view which I take of it.

912. But supposing that the estimate was only a few thousand pounds below the real amount, the Referees would, according to the present practice, state that it was unsatisfactory, in the same terms as they would if it was deficient to the amount of 100,000 *l.*?—I, of course, cannot tell what views the Referees have taken upon those points.

913. But, according to your rule, would they not be bound to do so?—I should leave it entirely to their decision. A certain margin is left by all promoters, in the borrowing powers, but that cannot be touched upon to any large amount. I, myself, have executed work to the extent of a great many millions of money, and with all the care which one can possibly take, it is rarely that we find, when the work comes to be completed, that it is done within the estimate, however liberal you may make it; and, generally speaking, all the powers of borrowing are absorbed before the completion of the work. And I think that if you looked to the question of having a sufficient estimate, so as not to have to come to Parliament, from time to time, for additional powers; and if that were well understood to be the basis upon which the estimates were to be taken, we should not have those deficient estimates, which in many cases we have had, and which have been deposited heretofore.

914. The Paper which you have handed in contains the tenders for the Team Valley Railway, and the Hull and Doncaster Branch?—Yes.

915. Those are two separate railways?—Yes, they are a part of the North Eastern system, of which I am the engineer, and we let those works a short time ago. Of course the mere amount, at which the works were let, was exclusive of the purchase of land, and all the materials for the construction of the line of railway.

916. Your estimate for the Team Valley Railway was 164,726 *l.*?—Yes.

917. But I observe that nine out of twelve of the tenders are above that amount?—They are; and we did not accept the lowest tender. That arose from the fact, that on an examination of the details of the tender which the contractors submitted with it, there were certain obvious errors in prices which we had to correct.

918. Mr. *Ennis.*] Have you known many instances in which great public works have been executed within the estimate?—Very few. I have, myself, been so fortunate occasionally; but I am bound to say that the instances in which that has been done, in my own case, have been the exception rather than the rule; and as I happen to act for a company whose object has always been to endeavour to make the estimates sufficient, I have never been limited in the slightest degree in it; but still I always find that there are questions which make it difficult to estimate accurately.

919. That being so, how do you suppose that non-professional gentlemen, serving as Referees, can be accurate as regards what is a correct estimate?—I have already stated that it is the most difficult task which, according to my view, they have to perform; and that, hearing these cases continually, they perhaps, without being perfect, will be, at any rate, infinitely better judges than a Committee who, hearing evidence upon those points for the first time, are obviously unprepared to give a decision upon the question.

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920. Lord *Robert Cecil.*] One of the values of the estimate, as I understand it, is that the deposit will vary with the amount of it; do you, yourself, attach much value to the deposit?—I know some cases, of the following description: I know one case this year, where I think that the Bill is almost unopposed, and has got to the last stage, and it is exceedingly doubtful whether the parties will take the Bill after all.

921. They borrowed their deposit?—They borrowed their deposit, and it is just a question, unless they are prepared to find security in some way at the last moment, whether they will not withdraw the Bill. They have had all the trouble of going through the House, and I believe that it is now exceedingly doubtful whether that Bill will not be withdrawn, after having passed unopposed up to the last stage. As the question of deposit stands now, I think that it is a vicious system; I happened to have one case in which the contract for the deposit was submitted to me, and in which I found that the obligations under which the parties had laid themselves were such, that I advised the parties for whom I was engaged on no account to have anything to do with it. A contractor agreed to find the deposit on condition that he was to have the contract on certain terms, which were so onerous that no people in their senses would have undertaken them.

922. If you have a respectable solicitor, cannot you generally borrow the deposit for 8 or 9 per cent.?—I have no doubt that it has become quite a business, and it is well known that there are several of these credit companies who advance it systematically, and, of course, they retain a certain amount of control over the Bill, according to such contracts, as I have seen, and the deposit literally is no security in itself.

923. Then, it is rather an expensive sham at present?—Yes; no doubt the promoters pay a large amount of interest for it during the period.

924. Then, do you think that Parliament should make up its mind either to render the deposit a reality, or to save the companies from the necessity of finding it?—From some individual cases which have come before me, I think that Parliament might just as well have no deposit at all. When the Bill comes to the third reading in the House of Lords it may be withdrawn, because the parties find that they are not likely to raise the money to go on with it, if they have gone to any expense in the meanwhile.

925. The line only goes on because the solicitor chooses to keep his word; there is no other guarantee, is there?—I think that the parties have found it better not to go on with their line.

926. You have expressed a wish that the powers of the Referees should be extended, and you have said that you anticipate a future period when their usefulness may be greater than it is now; would you be inclined to commit to them questions of policy, as well as questions of fact?—That would be simply this; that you would be establishing regular courts for the purpose, and perhaps it is too early in the day to give a decided opinion upon that point; but judging from my experience of the working of the Referees Court, I should be much better prepared to submit the whole question, both of facts and of policy, to a Committee, established as the Referees have been, than to have it divided as it is now. I think that the step, so far as it has been taken, is a good one, but that if you took a further step, and you had your Referees Court as an established Court for hearing the whole case, it would be a better thing than the double tribunal which now exists.

927. If that was done, should you think it desirable that the Court of Referees should sit over a longer period of the year than it does now?—I think that taking the Referees as they now exist, they going into the question of the facts as they do, they might begin their sittings earlier certainly than they have done during the present Session, so as to prepare the Bills more rapidly for the Committee. Of course, being Members of the House, you could hardly expect that they would attend before Parliament met, but excepting for that there is no reason at all why their sittings should not commence at the very earliest period of the Session.

928. There is nothing in the formalities which could not be perfectly fulfilled before Parliament met?—I do not know that there would be of necessity anything of that kind. You might have a distinct petition to the Referees Court from

from that against the Bill on its merits, and it might be presented in the same way as you now present a petition against a Bill on Standing Orders. I do not see any difficulty at all in that being done. I think that there are, perhaps, not more than one or two cases in a Session, or even that, when a Bill is thrown out upon a second reading, and, therefore, as a question of expense, there would be no loss to the parties.

929. If the Court of Referees were to have this business generally confided to them, do you think that the system of taking the second reading of a Bill might be deferred until after the Referees had made their report?—I think that you could not do that; I think that the second reading would still be necessary, because it would be almost an impossibility to have got all the Bills through the Referees Court before the second reading would come on; of course the question of the second reading is not a matter of any serious expense.

930. Are you satisfied with the composition of the Referees Courts?—I have stated that, looking at the manner in which the business is conducted, it appears to me to be exceedingly well done.

931. You do not desire to add any element to the court which does not now exist in it?—Certainly not.

932. Or to give it more strength than it now contains?—I do not see any necessity for it.

933. Mr. *Bonham-Carter*.] You are aware that at present Members of the House are added to the Court of Referees?—Yes; I have seen Members of the House sitting there.

934. Do you think that you could call upon Members of the House to serve in that Court irrespective of the Session of Parliament?—No; I do not think that you could do so. Taking the constitution of the court to be that you have the Chairman, as a Member of the House, and in some cases two Members not Members of the House; that is what I understood to be the intention of it; but I do not think that you could expect that any Members of the House would devote the time which the Members of the Referees Courts have done this Session, and particularly if you called upon them to attend out of the sitting of Parliament. I am quite satisfied, from my own experience of it, that it is a most onerous duty. I have been myself in that court until between six and seven o'clock on a Saturday evening.

935. You are aware that, besides the Chairman, Members of Parliament are added?—Yes; but my own view of the court would be, that the Chairman of it should be an officer of the House appointed as other officers of the House are, and that he should have as assessors two persons who were not Members of the House; I think that that would be a very fair constitution of the Referees Court.

936. Would you modify the present practice by which the assessors are Members of the House?—I think that if you wish to get a tribunal who shall make themselves, in point of fact, by continual attention to the subject, acquainted with all the details, you can hardly expect to get Members of the House who will devote their time day by day, from morning till night, gratuitously, I must say, for the love of the thing, to such a hard working court as that is.

937. Are you not aware that at present the composition of the court does involve that labour?—Yes; and all I can say is, that if you do get Members who will devote their time in that way, you ought to be exceedingly obliged to them for it, for I am quite sure, from my experience, that it is a most laborious duty which you throw upon your Members.

938. I understand you to say that one of the results of this Court is, that something which you consider of very great value to the public has been gone into with greater care, and that it has resulted in much greater efficiency as regards the opinion formed upon it than was the case with Committees?—Upon that point I am quite satisfied that it is so; and, speaking as an engineer, I regard those points as essential features in the Bills.

939. Are you aware that one of the objects of the establishment of the Referees Court was the saving of time to Committees and Members of the House, and also the saving of expense to promoters and opponents?—Yes.

940. Do you think that, coincidentally with what I understand from you to be a much more efficient inquiry into a particular portion of the question, there is also a saving of time and a saving of expense, notwithstanding the further in-

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quiry?—I am not quite so satisfied as to what may have been the saving of expense to promoters in all cases during the present Session. In many cases I am quite satisfied that there has been a large saving of expense, but I am quite satisfied that in a future Session, a great deal of the expense which has been incurred during the present Session, will not be incurred again. And with regard to the question of the saving of time to Committees, if the Chairmen of the Committees adhere to the resolution which has been generally adopted, of upholding the reports of the Referees, then, beyond any question, the time of the Committee is largely saved.

941. Am I to understand you that by the accuracy with which the details of the engineering estimates are gone into before the Referees, there is not only a saving directly in the Session then in progress, but that one of the results will be that there will be a reduction of the future applications upon those very Bills?—Clearly. If, as I have suggested, an amendment should be made in the deposit of the estimate, giving a greater amount of detail, expense would be thereby saved. I am quite satisfied that in a great number of cases which have come before the Referees during the present Session, in which I myself have been engaged, if that amount of detail had been given, expense to the parties would have been thereby saved, and there would also have been in many cases a saving of time to the Referees Court.

942. You have stated that the question of the deposit is, in your opinion, not satisfactory. Supposing that any modification whatever, so as to insure to the public a guarantee for the progress of the works were advisable, would you submit that question also to the Referees?—I have not considered that question, as I have confined myself to the question of engineering. There have been several cases during the present Session of Parliament, in which those points have been gone into by Committees, but whether they should go to the Referees or not, I am not prepared to say.

943. Is not the financial question usually connected with the estimate?—Of course it is.

944. And is not the ultimate result of the deposit a guarantee to the public that the line for which an Act has been obtained will be carried to a certain degree into completion?—Not in every case, certainly. I know a case in which a line in the county of Durham was obtained, and the moment the Bill was passed, the deposit was withdrawn upon a bond given in the usual form; about eight or nine years afterwards, application was made in a Bill of the North Eastern Company to relieve the parties from the responsibilities of that bond, and it was rejected in the first Session. In the second Session we got relief for them; but out of about 12 miles they had made about half a mile of railway.

945. Lord *Robert Cecil.*] Have you ever known a case where the deposit has been forfeited?—None whatever. Of course, as soon as the Act is passed, a bond is given, and the money is taken out, and you perhaps hear nothing more of it; but in the case to which I have alluded the parties happened to be owners of certain property, and they found that under that bond their property was so tied up that, unless by the powers of an Act of Parliament they could not be released from it.

946. Mr. *Gathorne Hardy.*] Let me understand; you say that the care with which the investigation has been conducted this year, with regard to engineering estimates, is such that it will very much diminish the necessity for it in a future year by making the engineers much more careful?—Yes, but not entirely.

947. That being so, when this new occupation is given to the Referees Courts, they will have very little to do?—I think they would still have cases, undoubtedly, which will come before them; but if you drop their duties altogether, I think engineers will soon relapse into their old habits.

948. For the next year, in your opinion, there will be a great improvement, both in engineering and in the estimates for carrying it out?—Yes; what I attach as great importance to as anything are the questions of the junctions, with regard to which many cases of the greatest importance have been brought before the Referees this Session.

949. *Chairman.*] Could you state in words, in writing, what you think should be adopted as a new Standing Order?—I have not put it down, but I would do so; I think, referring to the question of detailed estimates and the sections, they

they should deposit the section of the existing line where the junction is to be made. *T. E. Harrison, Esq.*

950. Mr. *Bonham-Carter.*] You would require the gradient of both lines, from the commencement to the completion of the junction, and the gradient of the line adjoining each side of it?—That is the whole question; of course your own deposited plan shows the gradient at the point of junction. I should give the section of the line, merely the gradient, what the inclination of the gradient is for a distance of half a mile on either side. That is my view of it. 13 June 1865.

George Kettilby Rickards, Esq., called in; and Examined.

951. *Chairman.*] YOU are Counsel to the Speaker?—Yes. *G. K. Rickards, Esq.*

952. You have been acting in that capacity for some years?—For 15 years.

953. And you have had your attention turned to the management of the private business of the House during the whole of that time?—I have.

954. At the end of the last Session of Parliament, I believe the Speaker appointed you one of the Referees under the new system?—He did.

955. And you have acted in that capacity during the whole of the present Session?—Yes, I have.

956. Would you give the Committee your opinion as to the merits or demerits of that system?—That is rather a large question.

957. I will put it in this way. Do you think that the institution of the Court of Referees has been one which has been beneficial in shortening the time, diminishing the expense, or in expediting the business of the House?—Yes, I think, on the whole, it has been beneficial in expediting the business. I have very little doubt that in that respect it has been successful.

958. You think that it has shortened it materially during the Session?—I believe it has shortened it materially. I think that the House has been enabled to get through an unusually large amount of business more speedily than it would have done under the former system.

959. What leads you to that conclusion?—The progress which has been made in the private business of the House at the present time.

960. Do you think that the progress of the private business, considering the amount which came before Parliament at the commencement of the Session, has been more rapid than usual?—Yes, I think it has; from the statistical accounts which have been laid before the Committee which I have seen in the evidence of Mr. Hassard and Mr. Adair, I think it clearly appears that the business has been expedited, that the House has made greater progress this year than it has done in recent years. With regard to expense, I am not able to give an answer upon that point, except so far as this, that inasmuch as I look upon time and expense as being nearly identical questions, all expenses attending Private Bills being payments, more or less, according to the time employed, I cannot help coming to the conclusion that the business which has been got through more speedily, must have been got through, on the whole, more economically, and that, in the aggregate, there must have been a saving of expense. At the same time I have heard, and I believe that, in the case of particular Bills, the expense has been increased rather than diminished.

961. Have you heard the causes, or do you know the causes, which have been assigned for that increased expense?—I think the cause of that is quite obvious. It arises from the divided inquiry; from the fact that certain Bills have had to come before two tribunals; first the Referees, and then the Committee; and from the interval during which the witnesses and parties promoting these Bills and opposing them have been kept in waiting; this has been an additional source of expense.

962. Has that been very frequent?—I am really not able to say, because I do not know, practically, what the result has been in particular cases. I only speak from what I have heard from many quarters as to the fact; and it seems to be quite natural and consistent with what one would expect, namely, that a divided inquiry in many cases will be an expensive inquiry. I say, in many cases, because I do not think it has been so in all cases; far from it. I think, in cases of great magnitude, where the principal questions in issue have been

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heard by the Referees, they have been heard much more speedily than they would have been heard before Committees; therefore, in those cases of great magnitude, my impression is that they have been conducted more economically, although they have had to go before two tribunals.

963. It has been stated, by previous witnesses before this Committee, that the expense to parties caused by the double inquiry has been caused very much by the postponement of cases set down for hearing before the Referees. Do you think that is an evil which can be remedied, or do you see your way to any remedy for it in future Sessions, supposing the Court of Referees to be continued?—I think that is an evil which is remediable. I am quite aware that in the present Session, when the system was new, and when the Referees were under great anxiety as to whether they should be able to keep pace with the Committees, and to prevent the business from coming to a lock, expense was incurred, which, under such arrangements as experience would suggest, in another year would not be incurred. Especially, I think expense was needlessly incurred, in consequence of the Referees not having sufficient numbers to form a separate court for *locus standi*. It frequently happened, during the early part of the Session, that cases which were begun upon engineering points were postponed in order to interpose cases of *locus standi*. The Referees thought it extremely important, for convenience and for economy, that they should give as early a hearing as possible to cases of *locus standi*; therefore, the Court, which had already commenced an inquiry into an engineering case, interposed inquiries into cases of *locus standi*, and the consequence was that some of these cases were prolonged more than they ought to have been. Later in the season, the Speaker appointed some additional Referees, and a separate court of *locus standi* was appointed; then that evil was remedied.

964. Are there any other causes of delay which you could assign for the increased expense, and which you think may be remedied by an alteration of the system?—I think the arrangement of the business—I mean the mere mechanical arrangement of the programme and the number of cases set down for each day's hearing, may have caused additional expense, which might be avoided in a future Session. As I said before, the Referees felt so hurried to keep up with the business, that they were led to put down more cases on their notice paper than they could get through; and the consequence was that parties were in waiting, expecting their cases to come on. I think if the Referees had more strength, and were not so much hastened, that source of expense would be avoided. That is a mere mechanical arrangement; but the great source of expense, which I mentioned before, was the divided inquiry; and my conviction is that that objection, if possible, ought to be got rid of.

965. How would you propose to get rid of the divided inquiry if the court is maintained?—The mode in which I would propose to get rid of it is by assigning certain Bills wholly to the Referees to be heard by them throughout, and that the Referees should report upon those Bills to the House, and that those Bills should not go through the process of an opposed Committee afterwards.

966. You would in those cases give the Court of Referees the whole powers of a Committee of the House?—Almost the whole powers, the whole powers so far as regards the hearing of all the questions arising upon those Bills.

967. What powers would the Committee possess which the Court of Referees would not possess?—In one respect I should not propose to give them all the same powers. The Committees exercise the power of making amendments in the Bills; I should propose that the Referees should only have the power of recommending to the House amendments in the Bills, and that those recommended amendments should go before a Committee on unopposed Bills for adoption.

968. Lord *Robert Cecil.*] That would be on constitutional grounds, I suppose?—Yes.

969. *Chairman.*] How would you propose to decide which Bills should be referred to this tribunal?—I should propose to vest the duty of assigning the Bills in a Committee of the House; such as would command authority and confidence in the House.

970. The Chairman's panel for instance?—The Committee I thought of was a Committee of three, consisting of the Chairman of Ways and Means, the Chairman of Standing Orders, and the Chairman of the General Committee on Railway

Railway and Canal Bills, and that that Committee should select such Bills as it should think proper to refer to the Referees.

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971. How would they be able to select; for instance, this Session, how would these three be able to select properly out of the 595 Bills which should go before the Referees?—In the first place, the Railway Bills are grouped by the Board of Trade, and the Board of Trade presents a general report upon those Bills; in that manner the general object of the Bills is known at the beginning of the Session. In the next place the Bills themselves disclose their objects, and it would not be a very difficult matter to find out what Bills were of the class proper to be referred. But chiefly I should depend upon the assistance of the agents, to bring before the Committee the Bills of that class which the Committee had previously indicated they thought suitable to go to the Referees. I have been assured, by leading Parliamentary agents, that the agents would be willing to give such information, and I am sure they would be able to do it, because they know the objects of their own Bills, and they know the objects of the Bills which they oppose; they are therefore possessed of the requisite information for assisting the Committee with reference to the objects and contents of the Bills.

972. Mr. *Milner Gibson.*] What would guide them; upon what principle would they act?—What I should propose is, that the Bills of the same class, generally speaking, and involving the same questions as the questions which have been, under the present Standing Orders, submitted to the Referees, should be referred to them; namely, Bills involving matters of engineering details, and estimates, almost all questions under Gas and Water Bills, and, with regard to Railway Bills, one very large class; namely, those Railway Bills which really affect the public only in a secondary degree, but which are brought in to decide and regulate the relations of railway companies between themselves. The relations of railway companies now have become extremely complicated, and a great number of these Bills are Bills merely to decide the relative rights and powers of the companies *inter se*. Those questions require, in my opinion, rather a judicial than a legislative solution; those are Bills requiring an arbitrator rather than the jurisdiction of Parliament, and I think would be very proper to submit to the Referees.

973. *Chairman.*] You say that there are a great number of these?—There are many every Session now.

974. As far as I understand your suggestion, it is that the Court of Referees would be a Committee in aid of Parliament rather than taking any particular branch of inquiry for itself?—It would be a standing tribunal for the consideration of Bills of a certain class, involving a certain class of questions, in aid of Parliament, the House retaining, of course, its jurisdiction upon the stages of the Bill.

975. You stated your object to be to get rid of the difficulty which you say has existed during the present Session in the correct definition to be given to the relative duties of the Referees and the Committees?—It is not so much the difficulty in the definition as the inevitable expense and consumption of time consequent upon the Bill coming before the two tribunals. I think that is the radical fault of the present system of the Referees, and one which it is most desirable to get rid of.

976. With regard to the other objection, that there is a difficulty in defining the relative duties of the two tribunals, do you yourself see any difficulty?—I do not estimate that difficulty very highly. I think that that difficulty has not been formidable in practice. There have been, I believe, a few cases in which there has been a controversy; as a general rule, the Referees have followed a certain course of decision as to the limits of their own jurisdiction, and the Committees have acquiesced in that view; there has, as far as I am aware, been but little conflict of jurisdiction between the Committees and the Referees.

977. Have you had your attention called particularly to those Bills which have been practically annihilated by the decisions of the Referees without going to Committee?—I am aware there have been many.

978. Do you think any of those Bills, under the old system, might have met with a different fate to what they have met with under the double tribunal?—No, I do not anticipate that they would have had a different fate; there have been several cases in which the real issue, under the Bill, was a question of engineering; the Referees having decided that, the case became either actually

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unopposed or practically unopposed. If the Committee had had to bear the engineering, of course it depends a great deal upon what the constitution of the Committee might have been, but I should suppose the result might have been the same, though, perhaps, the inquiry would have been longer before the Committee.

979. From your own knowledge, can you state whether there have been any cases this Session in which Bills that have been before the Referees have been unopposed?—I have heard of many such cases, and I believe it to have been the case

980. In those cases, I presume, that has been entirely owing to the investigation before the Referees having been quite satisfactory?—I presume so.

981. Have there been many cases, during the present Session, in which the objection made by the Referees has caused the rejection of the Bill before the Committees?—Yes; I believe there have been several.

982. In that case, the time of the Members and the time of the parties has been very much abbreviated as compared with former Sessions?—Yes.

983. Would you leave the appointment of the tribunal in the same hands that it is in now?—I would leave the appointment of the Members of the tribunal, generally, in the same hands; but supposing the Committee should recommend the House to adopt the proposition which has been made, that the Chairmen of the Referees should be Members of Parliament receiving salaries, I think the appointment should be made in the same manner as the appointment of the Chairmen of Ways and Means is made, namely, by the House.

984. Do you not think that if such was the case, rather a political character might be attached to the Chairmen of the Referees?—That is rather hard to predict; I should hope not.

985. You suggest that the appointment should be made in the same way as the Chairman of Ways and Means now?—Yes.

986. Is not the Chairman of Ways and Means now generally selected from the part of the House that is in the majority?—No doubt he is.

987. Is it not natural to suppose that the same course would be pursued with regard to the Chairmen of the Referees?—That certainly is quite possible, but there being only at present a single Chairman of Ways and Means, one can understand why it is that the Minister who proposes him should take a gentleman from his own side of the House; but if there were three persons to be appointed, I should rather anticipate that one at least would be taken from the other side of the House. But really I am speaking only from conjecture.

988. Supposing that should not be the case, do you think the public would have the same confidence in the tribunal as it would if there was a feeling that the judges of it were appointed impartially, without reference to any party feeling whatever?—The more impartially they were appointed, and the more impartial the source of their appointment, no doubt the better; but it has occurred to me that the Speaker might perhaps have a delicacy about exercising the same power of appointment that he has now of Members of Parliament if they were to receive salaries.

989. Lord *Robert Cecil.*] The Speaker is appointed in the same way, by the House?—Yes.

990. So that it would only be carrying it one degree further back?—Yes.

991. Mr. *Bonham-Carter.*] Has not the appointment of the Chairman of Ways and Means this element in it, that on occasions he may give his casting vote in the House?—Yes.

992. Does not that in some degree account for the political consideration which is supposed to govern the appointment of the Chairman of Ways and Means?—Yes; I do not think the two offices would stand quite on the same footing. These gentlemen, if they were appointed, would be appointed exclusively for private business, and I should think the natural tendency would be to select the best men.

993. Lord *Robert Cecil.*] Do you know any political appointment in the Government into which political considerations do not occasionally enter?—I do not know of any of a political character.

994. Mr. *Bonham-Carter.*] Do you think, if the appointments were removed one degree farther that rest in the Speaker, who is, in fact, the authority in regard to the Government on all internal matters of the House with respect to private business, that it might not be probable that in that position he would be perfectly

perfectly impartial, on political grounds, in selecting the Members of such a tribunal; that he would select, in all probability, one on each side?—I believe the Speaker would be likely to do so, because I see, whenever the Speaker has appointments to make of Committees, as, for instance, the General Committee of Elections, he chooses Members from both sides of the House.

995. If such a duty were imposed by the House upon the Speaker, it would be accepted by that authority as being apart from political considerations altogether?—I know that the Speaker entertained an objection to exercising this power of appointment at all.

996. You consider it very advisable that in a tribunal constituted to try cases of this kind, there should be no idea of any political leaning?—It is most essential.

997. It is almost as important, is it not, as in the case of Election Committees for the trial of election petitions?—It is quite essential that no political consideration should weigh in the selection of the Referees.

998. Supposing any political feeling should be mixed up with the appointment of this tribunal, in an interest involving hundreds of millions of property, it would have a very prejudicial effect?—I think it would go far to destroy all the confidence felt in the tribunal.

999. The appointment of the General Committee of Elections rests exclusively with the Speaker?—Yes.

1000. He appoints whom he likes?—He does.

1001. And up to the present moment, I believe you have never heard that there has been any party feeling whatever in the tribunal?—I never heard of a suggestion of anything of the kind.

1002. The only additional objection, then, you think you see is, that there is a salary attached to the appointment in this case, which is not the case in that of the election tribunal?—The only reason why it would make it difficult to give the appointment to the Speaker.

1003. Yes?—Yes.

1004. Mr. *Bonham-Carter.*] Are not Members of Parliament, irrespective of the Chairman, appointed occasionally Referees with the present Chairman of those courts?—Yes; Members have been appointed Referees in the present Session.

1005. In the constitution of that court, would it not be probable that any question of political predominance would be fairly eliminated; would it not be probable that in the appointment of Members of those courts, additional Members of those courts who are Members of Parliament, that, as in other Committees, they would not be exclusively of one political opinion, and that doubts upon that point would probably, in practice, be disposed of?—In the present Session I do not think there has been any reference whatever to the side on which a Member sat in selecting him as a Referee.

1006. Lord *Robert Cecil.*] I understand you to propose that the Bills should be grouped by a Selecting Committee, according to the nature of the issues involved in them?—Yes.

1007. Do you not think that in that case the labours of that Selecting Committee, which must be necessary arduous, would be much reduced if you could devise some system for ascertaining the issue distinctly before the Bill came before them; some system analogous to pleadings in a court of law?—I have not thought of any mode of ascertaining the issues by written pleadings, but I do not think, practically, there would be a difficulty in ascertaining what the nature of the issues under any Bill would be.

1008. Now in these Bills, as between railways which are more in the nature of suits than of Acts of Parliament, do not you think it would lighten labour if the exact issue was first ascertained by pleading?—I think it would cause increased expense and delay, and I own I am rather suspicious of introducing a system of pleading into private business. The preamble of the Bill sets forth the objects of the Bill; the petition sets forth the objections of the opponents of the Bill. I think it would be attended with inconvenience to carry the pleading further than that, to get to a replication and a rejoinder.

1009. Do you think the courts of law would get through their business as quickly as they do if suits were thrown down before them as Bills are thrown

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down before Parliamentary Committees?—No, but I think the tendency of the courts of law of late years has been very materially to reduce special pleading.

1010. Do Committees practically confine themselves to the issue raised by the preamble, on the one hand, and by the petition on the other?—Generally so. The opponents are not allowed to go into any question not raised by the petition; the promoters would object to their being heard upon it.

1011. Then, practically, the petition raises, does it not, every possible question that could possibly be raised by human ingenuity?—No, I do not think it is so. I have read a great many petitions this Session; they are not generally very long or multifarious; they usually direct themselves to certain special issues.

1012. Would you not think it might be desirable to limit the number of issues raised by imposing certain costs in cases where inadequate evidence was presented in favour of any particular issue raised?—I would not say it might not be necessary to introduce the practice of granting costs; but, as at present advised, I am not in favour of importing that element into the system of private business.

1013. *Chairman.*] With costs?—No.

1014. Lord *Robert Cecil.*] It was costs with regard to the special question of issues raised which it was not intended to support. Do the Referees confine themselves to questions raised between the two parties, or do they go generally into any questions that suggest themselves to them?—They confine themselves entirely to the issues raised by the petition.

1015. Then have the public no friend representing them before such Committee?—No issue whatever is tried before the Referees, except those which are raised by the opponents. If the issue is not raised, the Bill is unopposed as to that matter. It is only the issues raised by the opponents that are tried either before the Committee or before the Referees.

1016. Then if a junction is dangerous or a supply of water is bad, unless some opponent finds it out and suggests it, the Referees do not care to interpose?—The Referees have no means of ascertaining the facts except through the evidence brought before them by the objectors.

1017. They never ask for any class of evidence?—They have no power of bringing witnesses before them; they do not ask the witnesses who are before them any questions except those which arise upon the issue taken.

1018. Do you think that strict limit of the area of their inquiry is desirable?—I think it is inevitable. I do not think it possible to go into the investigation of matters, except those brought before the tribunal by the parties through the agency of the witnesses whom they call.

1019. Take for instance, a case we have heard of somewhat recently, the case of a railway running near the Observatory at Greenwich; do you not think it desirable that the court, before whom not only the facts but the policy of the question was to be tried, should have the power of investigating more than the mere opponents might think fit to bring before them?—I do not see by what machinery a court is to initiate an inquiry into any matter, except such as is brought before it by opponents; the court has no power. In fact, the court receives its information as to the contents of the Bill, from the promoters of the Bill, and its first notice of objection is from the petition against the Bill. It is there to hear the witnesses brought on both sides, but it has no independent means of inquiring into the Bill, of summoning witnesses, or of getting at additional evidence.

1020. Mr. *Gathorne Hardy.*] In the case, for instance, of reports of the Board of Trade, or, as it used to be, of the Admiralty, the Committee was called upon to make inquiries as to the objections set forth in those reports. A report was sent to the Committee from the Admiralty, or from the Board of Trade, inviting their attention to certain points of the Bill upon which the petitioners might say nothing; they had then an inquiring power beyond what we may call the extent of the litigant powers?—They could only exercise that power to this extent, that they could inquire of the witnesses brought before them into those matters; but to originate an inquiry requires machinery; it requires funds, and the tribunal has no power to compel the attendance of witnesses.

1021. Practically, you have always the engineer?—You have the engineer.

1022. And he is mostly acquainted with the line, or whatever it is?—He is.

1023. Lord *Robert Cecil.*] If we are constructing what is practically a new court, do

do not you think we should be supplying a somewhat flagrant defect, if some officer were charged with looking after the interests of the public in the case of those private Bills who might intervene?—That is a very large question; I do not see my way to anyone representing the public before those tribunals, and procuring evidence and conducting cases on the part of the public; I do not see the machinery by which it is to be done.

1024. *Chairman.*] What are your duties as Counsel to the Speaker, in looking over the Private Bills that are unopposed?—My duties are to see that the Bill contains nothing which is inconsistent with the Standing Orders, or with certain established rules and principles which are acted upon by Committees, or anything that may compromise the interests of absent parties.

1025. But you do not feel it your duty to look into the merits of the question?—No.

1026. Nor into the engineering details of it?—Not at all; whatever is unopposed, is assumed to be unobjectionable.

1027. According to the present practice before Parliament, Parliament knows nothing of the objections to a Bill, except it is opposed?—Parliament knows nothing, except through the medium of opponents.

1028. That is the system under which the whole private system of Parliament is carried on?—Entirely so.

1029. If you are to alter that system, you must alter your courts altogether, and employ some person to take charge of the public interests?—Yes; some public prosecutor or Attorney General for the public, to investigate all Bills and bring all objectionable matters affecting the interests of the public before the tribunal.

1030. In your opinion, in any alteration that takes place in the present conduct of private business in the House, we shall have always to rely upon the same principle; that is, that the defects of the scheme shall be brought forward by parties who appear as opponents?—I think that must be the course, unless you are prepared to originate an entirely new system and very extensive machinery.

1031. Mr. *Milner Gibson.*] At the same, you would take notice, in a Private Bill, of anything that conflicted with the general legislation in the specific subject to which the Bill referred?—Yes.

1032. With regard to a question put, as to the public interests being protected sufficiently when the whole matter was left in the hands of promoters and opponents, does not Parliament endeavour to protect them by certain general Acts, which contain clauses that operate in those private Acts?—It does so partially.

1033. And in that way there is some security that the public interests will be taken care of, though opponents and promoters may not do anything to help?—To a certain extent, the Consolidation Acts provide securities against improper powers being taken by promoters of Bills.

1034. *Chairman.*] Is not there another security which my honourable friend was too modest to refer to, namely, that they are also looked into by the Board of Trade, and any objections are pointed out by that department?—Yes, the Board of Trade exercises a supervision.

1035. Mr. *Milner Gibson.*] Do not you think that your doing the same thing as the Board of Trade are doing would be rather an unnecessary repetition of labour?—I do not see that my duties at all conflict with those of the Board of Trade.

1036. Do not you think we might be relieved, and you might do it entirely?—I do not think that would be at all a desirable arrangement for the public.

1037. Mr. *Gathorne Hardy.*] In a case where a Bill is unopposed would the tribunal that investigates its merits look at the report of the Board of Trade or of the Admiralty, and inquire into the subjects which were specially referred to in that report?—It would call upon the promoters to explain and answer the objections raised by the Board of Trade, but it never institutes an inquiry through witnesses into the merits of a question raised by the Board of Trade.

1038. *Chairman.*] You state, whatever the Court of Referees may be for the future, that it must rely upon the same system as has been adopted by Parliamentary Committees?—I think it must do so. I think it must treat a Bill as an issue between promoters and opponents.

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1039. That being the case, have you seen any great benefit derived from the altered practice in the Referees, as compared with the Committees, of leaving the *onus probandi* on the opponents, instead of, as originally, on the promoters of the Bills?—I think it has saved the Referees a great deal of time. Instead of taking the promoters first, and hearing their whole case stated in full, the promoters not knowing exactly what point of objection would be taken by the opponents, and therefore being obliged to guard themselves against any possible ground of objection; instead of pursuing that course, they have at once gone to the opponent, and compelled him to state his objection and prove it, if he could, and then they have called on the promoters to answer it. I believe that practice has led to a great saving of time.

1040. Do you think it has led to any injustice?—No.

1041. Or increased expense?—On the contrary, I think it has led to diminution of the expense, because it has saved time. I think in certain cases it requires an exception to be made, and an exception has been made by the Referees in some cases.

1042. What cases are those?—There are cases where the plans and sections do not give adequate information to the opponents to enable them to prepare themselves to show cause against the scheme; and another class of cases where the question turns upon the estimates. I think it often may happen that it would be reasonable that those who have made the estimates should first explain them.

1043. Would it not lead to the same result if those who promoted the estimates should have to put them in in rather greater detail than at present?—Yes, if they were put in in greater detail, I think that might answer the same end, and then the opponents might be able to question them.

1044. Do you think the particulars of a Bill are put in in sufficient detail, according to the present requirements of Parliament?—Railway Bills in general?

1045. Yes?—I think they are.

1046. As regards the estimate?—I would make an exception as to the estimate; I think, if the rule were to be established that the opponents are to begin, there ought to be more detailed information given in the estimates than is given at present.

1047. Then with regard to the question of junctions between railways, which has been gone into by former witnesses, you think in those cases also, I presume, the mode of junction should be stated in the first instance by the promoters?—I think it would be convenient.

1048. Seeing that, acording to the present plan of putting in the plans, you have no knowledge of the inclines or the stations of the railway with which it is proposed to effect the junction?—Just so.

1049. On the whole, I collect from what you have stated that you propose to maintain the Court of Referees in all cases of *locus standi*?—Yes; I am clearly of opinion that it works well in cases of *locus standi*.

1050. Mr. *Lowe*.] I want to know what is the use of having the estimates and the engineering details examined at all?—The use of having the estimate examined, I think, is this: the cost of an undertaking, say of a railway, is a material element in the merits of the scheme. The question whether it is a cheap scheme or a dear scheme I think is a material one upon the merits, and therefore I think it important that there should be an estimate, and that an investigation should be made as to whether that is a *bonâ fide* or a delusive estimate.

1051. Is it on behalf of the public you think that ought to be done?—Yes.

1052. Then, ought it to depend on the accident whether there is any opposition or not; whether that is investigated?—We come back to the same question of which I have been speaking; it is only through the medium of opponents, according to the mode in which private legislation is carried on, that the public are heard at all against the Bills.

1053. Then you think it is not necessary to protect the public except through the medium of opponents?—I do not say that. I say unless you make a fundamental alteration in the system, you must be content to take the objections which may be made on behalf of the public through the medium of the opponents. It is the interest of the opponents to make every objection that can be made to a Bill which they wish to defeat; therefore they take up the cause of the

the public, and fight under the banner of the public. They take all objections that can be taken on public grounds. The preamble states, in every Bill, that it is expedient for the public interest that such and such works should be done; the opponents controvert this, and they put themselves in the shoes of the public, and allege all the public objections that they can.

1054. Does not it resolve itself into this dilemma? If these investigations are for the interest of the public, they ought to be made in every case; if they are not, they ought not to be allowed to be made merely for the purpose of private interest?—I think, practically, the private interest works well for the public. It is, as I said before, the interest of rival companies and persons who are opposed to the promoters of the undertaking, to leave no stone unturned to defeat their opponents' scheme. The most plausible and forcible means they can devise for doing that is to take up the cause of the public, and they do that; but if you were to adopt a different system, and appoint machinery by which the interests of the public should be taken up by certain officers appointed on behalf of the public, I do not say but what it might be a better system; but it would be a fundamental change of the whole system of our private legislation.

1055. We will admit private interest works well on behalf of the public, but that is only when it does work?—Yes.

1056. Supposing the promoters buy off the private interest, then the public is left bare?—It is so.

1057. And the worse it is, the more it is the interest of the company to buy it off; the worse the estimate is, the more it is the interest of the company to get rid of the opposition by some concession?—That may be so, but, practically, I think that the system does work tolerably well for the protection of the public.

1058. Is not it rather the contrary, that a thing that we are willing to leave merely to private interest to take or leave at its pleasure is a matter of no great importance to investigate at all?—I do not know that I understand the bearing of the question.

1059. We are content at present to leave these questions of estimate and engineering to be fought for or not at the pleasure of opponents?—Yes.

1060. We leave it to them as their interest directs them to take them or leave them; that is so?—Yes.

1061. If we are so negligent of them as that, can it be that they are of that importance that we ought to allow them to be fought at all; is it worth while allowing so much time to be spent in fighting things that we do not mind whether they are fought or not; that we leave it entirely to private interests whether they are fought or not?—We leave these private interests to compete with each other.

1062. If they won't compete, the public is sacrificed between them?—The public is generally protected by the one party taking up the interests of the public.

1063. But if the parties won't fight, then what you call the public interest is neglected?—It is not represented in such cases, certainly.

1064. If you care so little for it as that, is it worth while allowing the immense trouble and expense that is incurred in fighting these things which are not done in behalf of the public?—They are not fought, at the expense of the public. I do not see why it is not as fitting that two parties privately interested should be allowed to contest a Bill in Parliament as a suit in a court of law.

1065. You think, as a whole, it stands well as it is?—I am not prepared to propose any alteration.

1066. *Chairman.*] Is not the public protected, to a certain extent, in this way:—We take a Railway Bill. Parliament requires that when parties promote a Railway Bill before Parliament they should, in the first instance, give public notices in all the newspapers to everybody affected by it?—Yes.

1067. That is some protection to the public, is it not?—It is.

1068. That they are then to deposit the plans of any works by a certain day, and that the public have full access to those plans, and have an opportunity of judging whether their interests are affected or not by them; is that not so?—I think those precautions are rather for the benefit of that part of the public whose special interests are affected than for the public at large.

1069. But at the same time the notices embrace the whole public, altogether?—Yes.

1070. So that there is every reason to suppose that if public interests are

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affected injuriously, some portion of the public will come to look to those interests?—I cannot say I think anyone ever takes up the cause of the public on behalf of the public from public motives only.

1071. Nobody does; but that is the way in which the public interests are looked to, by giving the greatest facilities for parties interested to protect themselves?—Yes, there is full publicity given to every scheme, and those parties whose interests are affected are apprised of the necessity of coming forward to defend themselves.

1072. Lord *Robert Cecil.*] And there are a large number of public interests, are there not, which are not the private interests of any special individual?—Clearly.

1073. *Chairman.*] Which would you say are the public interests that do not affect private individuals?—We will take a new scheme of railway. That scheme may not be absolutely the best for the public, and to that extent it is an injury to the public that any scheme but the best and the cheapest should be adopted. It is not the interest of any existing railway company to oppose that scheme, or of any landowner. Well, that passes unopposed.

1074. Lord *Robert Cecil.*] A dangerous junction is the interest of the people who get killed, but of nobody else?—It may so happen.

1075. Mr. *Milner Gibson.*] I understand you would give to the Referees exclusive jurisdiction over all Bills asking powers for the execution of works?—That was not my proposition.

1076. I thought you said any Bill in which there were engineering details?—What I mean is this: the Referees in the present Session have had before them some of the most important engineering questions raised in Private Bills, but they have had the engineering only upon these Bills; the other questions have gone before the Committees in the usual way. What I meant to state was this: I would wish to preserve generally the same class of questions for the jurisdiction of the Referees, and therefore I would have the Committee of Reference select those Bills which principally raise engineering questions; but I would give the whole jurisdiction over such Bills to the Referees.

1077. Mr. *Bonham-Carter.*] Then you would have the Committee which is to decide which Bills are to be sent to the Referees, decide as to the proportion of policy or of engineering contained in those Bills, and whether they shall be sent to the Referees or to the Committee?—I would have them send Bills which rather involve matters of detail than of policy to the Referees.

1078. Then, on the whole, where engineering was the predominant portion of the case, you would give that entirely to the Referees, but when there is a principal portion of it policy, you would still adopt the present practice of letting the Referees consider the engineering, and, without any expression whatever upon policy, send the Bill to the Committee?—No; I should not send a Bill to the Referees if it involved any important question of policy.

1079. Would you deviate from the present course, and, in order to have only one tribunal, would you withdraw that Bill from the Referees?—Yes; I would not divide any Bill between the Committee and the Referees.

1080. Mr. *Gathorne Hardy.*] There has been a suggestion that Gas and Water Bills should be referred entirely to Referees; do you see any distinction, in point of public policy, in referring Railway Bills, under the same circumstances, to the Referees; the whole of them?—I think I have not suggested that all Gas and Water Bills should be referred to the Referees.

1081. No, I am taking a scheme which has been put before the Committee?—There may be questions arising on Gas and Water Bills which raise important issues of policy; those Bills I should not refer to the Referees. It is because the majority of Gas and Water Bills raise rather mechanical questions than questions of policy, that I think it would be found that the majority of those Bills would be suitable for Referees.

1082. But where they did involve, in the main, a question of public policy, you would not send them there?—I would not.

1083. Lord *Robert Cecil.*] On what ground do you think the Court of Referees less fitted to discuss questions of public policy than a common Committee?—It is not because they would be less competent, in my opinion, but because I do not think Parliament would be prepared to part with its jurisdiction in cases that involve policy.

1084. Would taking the advice of the Chairman and the Court of Referees instead

instead of the advice of the Committee of four, in your opinion, constitute an abandonment of its power on the part of the House of Commons?—The question of policy is a question peculiarly for Parliament, and therefore it would be a larger transfer of Parliamentary powers to the Referees to refer questions involving policy to them than has yet been done, or than, I think, Parliament would at present be prepared to concede.

1085. But Parliament already parts with its Parliamentary powers to a Committee of four?—It does so in effect.

1086. And in this Court of Referees there would be, I understand, two Members of Parliament?—Yes, but they would not be all Members of Parliament. In that respect it would be a further step.

1087. *Chairman.*] Upon that point, do you see any objection to the Court of Referees being entirely composed of Members of Parliament, if it can be so arranged?—The object with which the Referees were instituted, as I understood, was to relieve the House of Commons; but if you are going to compose the court entirely of Members of Parliament, I do not see much distinction between the Committee and the Court of Referees.

1088. Would not you see this distinction, that supposing you get two permanent Chairmen sitting the whole Session through, from eleven to five, and were to support them by Members of Parliament only obliged to sit for a certain number of days, or to the end of a particular Bill; do you not think that a court so constituted might undertake the investigation of the whole case?—No doubt; because that court would be a Committee. The only difference would be, that you would have two Committees at work much harder than any other Committees. There would be no distinctive system of Referees.

1089. The branch of inquiry, which has been suggested, might be then safely given to the new court?—The new court would be only a slight modification of the present Committees.

1090. It would be so; it would come to that afterwards. Now, may I ask you, you propose for the future that the question of *locus standi* should go to a Court of Referees, separate from the tribunal which investigates other portions of the Bills?—Yes, I think the question of *locus standi* ought to go before a separate tribunal of its own.

1091. On whom would you devolve that duty?—I think the Chairman of Ways and Means would be a fitting Chairman of that court, and some two other members to be appointed by the Speaker.

1092. Should those two other members be necessarily Members of the House?—No; I do not think they should necessarily be Members of the House.

1093. Should you have any objection, as Counsel to the Speaker, to take a place in that department; would it interfere materially with the performance of your present duties?—I believe not. I believe I could undertake that part of the duty, if it were thought proper.

1094. Do you think it would cause any material increase to your present duties?—It would be some increase, of course; but I think I could undertake it.

1095. There would be the Chairman of the Ways and Means and yourself?—And, then, I think there should be another Member of the House.

1096. Do you suggest that that Member of the House should be appointed permanently?—For the Session.

1097. You do not think it would do to appoint them from time to time?—No; I think it very important that you should keep the tribunal for *locus standi* uniform, consisting of the same Members.

1098. Do you think it would not be uniform if there were two Members of the court permanent; do you not think the third Member might be added from time to time?—I do not say it would destroy the uniformity of the practice, but I think it would not be so complete a court as if you had the same Members sitting throughout the Session.

1099. You consider it, I believe, a great advantage that the investigation should be a longer one than takes place now before Committees?—Not a longer one.

1100. That the sitting of the Court each day should be longer?—Yes; I consider that most essential. I think the sitting should be longer than it is in the Committees.

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1101. What do you think would be a reasonable time to devote to the inquiry daily?—As regards the persons who constitute the tribunal, I think from five to six hours is a very adequate day's work.

1102. Supposing a tribunal was constituted, whose duty it was to sit from eleven to five every day, do you not think it would be a very material assistance to the Houses of Parliament in the conduct of private business?—I think a sitting from eleven to five would cause a great economy of time, as compared with the sitting between twelve and four.

1103. Have you any notion as to the saving it would effect?—I think one day of five hours, or five and a half hours, would be worth two days of the shorter sittings, such as the Committee hold, of about three and a half hours.

1104. That has been the case, I believe, in the Court of Referees?—It is difficult to measure exactly the comparative amount of work got through, but that is a calculation I have made, that by going on continuously for from five to six hours, we have got through as much work as a Committee would get through in two days of the ordinary term of three and a half hours each.

1105. Supposing the House should determine not to maintain the Court of Referees as it now is, you think it would be a very great advantage to get the more permanent tribunal, by means of paid Chairmen investigating cases such as you have described?—If the alteration simply consisted in this, that you are to have two Committees, composed of the same materials as the present Committees, presided over by two paid Chairmen, and sitting longer hours, then my doubt is whether you could get Members to serve for that purpose.

1106. I have stated my supposition was, that the Members to assist the Chairman should be appointed from time to time?—But if the Member is appointed only for a short time, I do not think then he answers the object which was aimed at in the appointment of the Referees, namely, that of gaining great aptitude by experience of his work. If on the other hand you make him sit a long time, you are imposing a heavy burden on him, which I think he would be impatient of.

1107. Have you observed any advantage that has been gained by diminishing the number of Chairmen of Committees, as compared with the old practice?—Yes.

1108. What do you think that advantage is?—From the increased experience and knowledge of the business which those Chairmen derive, and from the greater uniformity of decision which you get from a smaller number.

1109. Do not you think that the same effect would be produced by a tribunal such as I have described?—I think if you could get Members to sit, and sit long enough to be thoroughly conversant with the business, they would be of very great service.

1110. The practice of the present Session has been not to detain a Member on a Committee more than 10 days, or later than the end of the Bill under consideration?—Then I do not think those Members who sit occasionally for short periods, can require a sufficiently thorough knowledge of the business, to form efficient tribunals.

1111. You then would consider it a *sine qua non* that in the Court of Referees every Member of the court must be a permanent Member, and sit from the commencement to the end of the Session?—I do not say absolutely from the commencement to the end, but I think he should act for the most part through the Session, and that certain Members of the court should sit through the Session.

1112. How many Members would you have to each court?—Three.

1113. And how many courts?—I think the experience of the present Session has shown that if you separate the *locus standi* question, two courts would be quite sufficient.

1114. Two courts in addition to the Court of *locus standi*?—Yes.

1115. How many paid Members would you have in each court?—Do you mean Members not of the House?

1116. Either?—I would suggest that two Chairmen should be paid, being Members of the House, and then, as to the number of non-members of the House receiving salaries, that would somewhat depend on the power of getting Members of the House to serve gratuitously. In the present Session there have been Members ready to volunteer and take a good deal of the duty; and I suppose it might be calculated that you could get a certain number of Members; but still I think you will be obliged to resort to the services of some paid Members. I should think if you get two or three paid Referees not Members of the

the House, and two paid Chairmen, you would then want two more, and you would find Members of the House willing to volunteer, as they have done this Session.

1117. You do not believe that the same object would be attained by merely the Chairman being paid, and the other Members appointed as at present, as is the case in Committees?—If you have a Chairman paid, and constant, but the Members varying, no doubt if you get very good Chairmen, and if the other Members are willing to give all power into their hands, and to be guided by their judgment, the thing might work well enough; but I do not think these occasionally added and frequently changed Members would become competent judges in the full sense of the word.

1118. Lord *Robert Cecil.*] They would be better left out?—I do not think a single judge would give satisfaction.

1119. *Chairman.*] Has not that been the practice during the whole of the present Session in Committees?—No doubt: that is why I think the Referees would form a better tribunal than the Committees.

1120. Mr. *Gathorne Hardy.*] Then if you do not assist the Chairman of the Referees with additional Members, why should he be a Member himself, and Chairman?—I think, for many reasons, it is important that the Chairman should be a Member of the House. In the first place, I think the House would have much more satisfaction in a tribunal presided over by one of its own Members. In the next place, the Chairman is there in his place to vindicate any decision which the Referees have come to. And lastly, with reference to the outer world, I think that tribunal would command much greater weight from being presided over by Members of the House.

1121. *Chairman.*] What do you think would be the expense of the tribunal that you recommend?—An inconsiderable sum, compared either with the total amount of fees received by the House, or compared with the economy which I believe would be effected by making the system efficient; a very few thousands.

1122. Do you think the fees would pay the expenses?—If private business continues at its present amount there would be a large surplus, as there is now; a very large surplus.

1123. Mr. *Bonham-Carter.*] I understood you to say, a certain class of Water and Gas Bills would, in your opinion, be well taken entirely by these courts?—Yes.

1124. Do I understand you to mean certain classes of these Bills raise questions of policy which you would, on that account, withdraw from the Referees?—Yes.

1125. For instance, that case of whether a supply should be taken from the Severn Valley into the Thames Valley, in the case of water; do you consider that a case of policy for the Referees or for the Committee?—I think that would be a question quite fit for the Referees.

1126. That would be a question of policy, I presume?—The first question would be a question of fact, whether the abstraction from the river would practically be injurious to it. That would be the first question.

1127. Is there not this distinction between gas and water, that the sources of supply in one case may involve a much wider question of policy, and probably a question of policy which does not at all exist in the case of Gas Bills?—Yes; questions of water supply are generally much larger than those of gas.

1128. Still you think the great proportion of those water cases might, notwithstanding the contest which arises in the sources of supply, be very well turned into the hands of the Referees?—Yes; I think a large portion of Water Bills every Session might safely go to the Referees.

1129. And notwithstanding the Referees having these cases, you think two courts for the consideration of Bills and one for *locus standi* would practically be sufficient?—Yes; I think they would perform a large proportion of the private business.

1130. Mr. *Lowe.*] Do I understand your view is that all Referees should be paid?—No; I did not say that. I said, I think, there would be some Members of the House of Commons who would be willing, as they have been this Session, to volunteer their services, and I think it would be desirable to take advantage of that.

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1131. You really think so?—It is a fact that some Members of the House this Session have served for many weeks and months.

1132. Do you think that any of these gentlemen are willing to repeat the dose?—Yes, I know one who is.

1133. If you could get people for nothing, you would, of course?—Yes.

1134. You think the great mass of them should be paid?—Yes; I think you will be obliged to pay the majority.

1135. You think the Chairmen should be Members of the House of Commons?—Yes.

1136. And that the others should, as a general rule, not be Members of the House of Commons?—I think it might be a mixed body, and it would work very well.

1137. I suppose you think it would be better to have a person not a Member of the House of Commons, and paid, than a Member of the House of Commons who did not give a constant attendance? — It is essential that anyone who is appointed should give a constant attendance.

1138. He must work as if he were paid?—Of course.

1139. That would be your view of the court; a Chairman who is paid in every case?—Yes.

1140. And you would have three paid Chairmen?—Two paid Chairmen.

1141. I thought you contemplated three courts?—The Court of *locus standi* I propose, should be presided over by the Chairman of Ways and Means.

1142. With a view of expediting business before Referees and Committees, have you ever considered this plan: that each counsel should state his case before going into evidence at all, and the Committee should settle the issues from the statements of two counsel, as I believe is done in Scotland at Nisi Prius?—No, I have not considered that at all.

1143. How do you think that would work?—That is putting an arduous duty upon the Committee. I think you ought to have very competent Chairmen to eliminate the issues to the satisfaction of the parties.

1144. I take it you yourself would have no great difficulty in doing that, being a lawyer, as Chairman of such a Committee; it is really done at Nisi Prius in Scotland. I understand the counsel on both sides speak first, before the evidence is gone into; do you think that might work?—As I said before, I think that would require a very competent class of Chairmen to carry it out effectually.

1145. Hardly the ordinary Chairmen that we get for our Committees; they would hardly be equal to it?—I would rather not give an opinion as to that.

1146. Mr. *Milner Gibson.*] Would not it be an investigation of some difficulty, ascertaining what Bills should go before the Referees, and what should go before the Committees?—I do not think it would be a question of difficulty, and I do not see that the consequences of an error in judgment, if one were committed, would be serious, because, as I assume the Referees to be constituted, they would be a highly competent tribunal, and the House itself would retain jurisdiction over the Bills. Therefore, I do not see that any serious consequences would result from a possible error of judgment; but I do not think it would be a difficult judgment to exercise.

1147. They might object in some cases to go to the Referees where they thought they had a question of policy, or where they thought the Referees were likely to decide adverse to them. The parties having the Bills would object to go before the Referees, and wish to be heard upon that point?—If you provide competent tribunals, I do not think the parties have any right to object to them, and I believe the parties would always rather go before the most competent tribunal you could appoint.

1148. Questions of engineering are questions of opinion, and persons confident in their views as to the engineering of the schemes that were promoted might not wish to go before a Court of Referees who had already given an adverse decision; they might say, "Let us have a hearing before a Committee?"—But there are no two questions of engineering precisely similar; every case depends on its own circumstances.

1149. If the decision of these Referees are to be uniform, so that they become a sort of code of laws, people would know it was no use to go to them, if they raised questions upon which there had been adverse decisions, though they

they might be confident that the questions ought to be investigated by somebody?—I do not think questions of engineering are those definite questions upon which one decision would govern a subsequent case. The merits of one case of engineering will always differ very greatly from the merits of another.

1150. Would you allow the parties to be heard by this Committee that is to judge whether Bills are to go before Referees or before a Committee?—As a general rule, I think if the House appoints competent tribunals it is not for the parties to object to be heard before those tribunals. I think it might be convenient to allow the agents for Bills to state if they have any substantial ground to allege why a particular Bill should not go the Referees, and that it might be proper that the Committee of reference should entertain any such objection. But I would not give parties a right to say, "I decline to go before the Referees."

1151. Supposing the promoters of an undertaking had had an adverse decision from the Referees?—On the same undertaking?

1152. On engineering points, and then they come again the next Session and they say, "Let us go before the Committee of the House"?—I think the most convenient course would be to send them before the other Court of Referees. I assume that the Referees, if properly constituted, would be an expert tribunal; they would consist of picked men and of practised men, experienced in these questions, and therefore they would become an expert tribunal. Now, one cannot say, with all deference to the Committees, that they are expert tribunals, except as regards the Chairman. The Chairman may be considered an expert, but the others are not so. But all the Members of the Referees would become so by practice.

1153. Only they have to decide questions upon evidence. They have to form an opinion upon evidence. Might not promoters say, "Let us have the benefit of an investigation before a Committee; let us have their opinion upon the evidence; we have had the opinion of the Referees, and we should like another Session to have the opinion, not of the same persons, but the opinion of the Committee of the House"?—In the case of a Bill, which I presume is the case put, rejected one Session and coming forward again in the same shape the next, I think the best thing would be to send that Bill before the other Court of Referees. I do not see what ground parties would have for saying, "I prefer a Committee to the Referees," if the Referees are (as I assume they would be) constituted of highly competent persons. I do not see that it would be a reasonable thing for anyone to say, "I object to the Referees; I want to go before a Committee;" and I do not think the House ought to allow parties to have that choice.

1154. Mr. *Gathorne Hardy*.] Would it not be more likely to be the other way?—My own opinion is parties would prefer the more competent tribunal.

1155. Mr. *Milner Gibson*.] But would the more competent tribunal be more or less disposed than the Committee to adhere to previous decisions?—The more competent tribunal would be less disposed to adhere to previous decisions because they were previous decisions.

1156. Lord *Robert Cecil*.] Do you think there is any advantage in varying decisions?—Certainly not.

1157. Mr. *Milner Gibson*.] Where you have no law to guide you; no statute or common law, where you have merely an opinion as to the experience of certain powers, do you not think, then, men of sane minds, such as Members of Parliament are, are quite as competent to give that opinion as anybody else?—I think Members of Parliament are quite competent, but I think that those who have had the advantage of practice and experience in hearing and deciding questions of a similar kind, are more competent than those who are not experienced, whether Members of Parliament or otherwise. According to my view there would be nothing alien and nothing very dissimilar in the constitution of the two bodies, the Referees and the Committees. They would be composed of men very much of the same class and powers, but the Referees would have the advantage of acquiring aptitude by practice, and by constant attention to that class of questions.

1158. Well, you say you would keep questions of policy for the Committees, but there is a certain class of Bills that you would send to the Referees and give them the power of deciding on them?—Subject to the control of the House.

1159. Then it still comes back to the point, inasmuch as you do attach a value, according to your own showing, to the decision of a Committee upon a question of policy, whether you would hear parties upon the question whether the

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Bill was eventually to be decided by the Referees or by a Committee of the House?—I would not; but I should explain that it is not because I consider the Referees would be incompetent to decide a question of policy, but it is because in deference to the opinion and feeling of the House, I would not propose to hand over questions of policy to a tribunal not consisting exclusively of Members of the House.

1160. Lord *Robert Cecil.*] If you found the opinion of the House the other way, you would not object to it?—Certainly not.

1161. Mr. *Milner Gibson.*] Why is it after all, that with 650 Members of Parliament to choose from, there should be this extraordinary difficulty in getting four gentlemen to sit; do you know anything about that?—I suppose it is, in the first place, that you have to eliminate from your 650 a great number who are engaged in the public business of the House, and who cannot give their time to Private Bills. Then there are public Committees, and various other engagements; however, it is a question I am not so well able to answer as those who are engaged in the duty of selection.

1162. Lord *Robert Cecil.*] Cabinet Ministers do not often serve on Committees?—No, nor even ex-Cabinet Ministers.

1163. Mr. *Milner Gibson.*] Are there not a great number of Members that are not ever asked to serve?—That is a question I am not able to answer.

1164. *Chairman.*] You have not seen a Return that I have had drawn out this Session of the number of days on which every Member of the House has sat for five years on public and private Committees?—No, I have not.

1165. Have you any other suggestions to make?—I have two minor suggestions. One is with regard to the form of the reports of the Referees; I think that too much is required from the Referees in regard to making reports. The duty of drawing the reports during the present Session has been one of the most onerous duties that have fallen upon the Referees, and I do not think the labour they have bestowed upon them has been answered by any corresponding advantage.

1166. Is it not very necessary that if the decision of the Referees is to be acted upon by the Committee that it should be very precise?—It is necessary that it should be quite unambiguous; that the Referees should state, very distinctly, whether or not the engineering is objectionable, or whether or not the estimates are sufficient; but what I do not think necessary is, that they should have to go into a statement of the grounds of their opinion, because the Committee cannot inquire into those matters; they are precluded by the Standing Order.

1167. You would recommend that the Standing Orders should be altered, and the words taken out obliging them to state their reasons?—I would leave it to the Referees, as it is now left to the Committees, to frame their reports according to their own discretion; if the Referees are to state the facts, the facts consist of the evidence given before them; what they have done is to state the main grounds upon which their conclusions have been founded, but as to stating the facts, it would be of no service to the Committee to do so, because the Committee cannot inquire into the same facts.

1168. Mr. *Milner Gibson.*] They could not come to a just opinion without going through these facts again?—No.

1169. Mr. *Lowe.*] They ought not to judge of that?—That is the Standing Order, but they are apt to do so.

1170. Would it not be better to leave out these grounds altogether?—I think so.

1171. Do they not often serve to qualify the opinion of the Referees, and to deprive them of the force they would otherwise have?—I believe they do.

1172. Mr. *Gathorne Hardy.*] I believe you know these reports have caused an infinite amount of labour to the Referees?—They have been one of the heaviest duties the Referees have had to discharge.

1173. Mr. *Lowe.*] You would suggest that they should give no special verdict at all, but simply a finding?—Yes.

1174. *Chairman.*] A Committee, when it rejects a Bill, simply says it does reject it?—"The preamble is not proved."

1175. You would give the same powers to the Referees?—I would, subject to the power of the House to require from them, in any case in which it was thought necessary, a more special report.

1176. Lord *Robert Cecil.*] It always obviates the danger of criticism, if no reasons are given?—No doubt, but it prevents misconstruction. With regard to the practice of hearing one counsel, as a general rule, it has worked very well; but

but I think it ought to be left to the discretion of the Referees to sanction the employment of more counsel than one in a case where it is absolutely necessary, as I consider it is necessary, in some very heavy and protracted cases. *G. K. Richards*, Esq.

1177. Mr. *Lowe.*] If we take your suggestion, we must do away with a rule altogether, namely, that the Referees are to hear the whole case?—I do not see that that follows. 13 June 1865.

1178. Because there might be some matter of policy over and above the engineering details?—But I do not say that the question of the number of counsel employed depends upon the questions referred to the Referees.

1179. Do you think it would be within the power of their Committee of Selection to send one Bill, where only one counsel would be heard, and another Bill where they might hear any number they liked?—I would only go as far as this, that if the House retains its restriction, upon the employment of counsel before the Referees, it ought to qualify it by giving a discretionary power in certain cases.

William Adam Mundell, Esq., called in; and Examined.

1180. *Chairman.*] YOU wish to make some suggestions to us, I believe?—I do. I have some remarks to offer upon the subject of the employment of single counsel. I have been a good deal employed before the Court of Referees, and limiting myself to that tribunal, I think it is of the greatest possible advantage that there should only be one counsel employed, and I liken it exactly, although it is attended with great labour, to arguing a special case in a court of law. It is a special subject matter, the issues of which, although sometimes complicated, are generally of the same description, such as engineering; and I think one counsel is the very best possible number that can be employed. Of course it has been very hard upon counsel sometimes this Session, because we have sat from eleven till seven, which is rather too much for any one counsel or tribunal. But still one counsel is the best, and I will state shortly why. At common law the leading counsel, if it is a case of Nisi Prius, comes in and opens the case; he does not examine his own witnesses in chief, but he cross examines every witness, and re-examines every witness that his junior examines in chief. He has the conduct of the entire case. In Parliament it differs; juniors cross examine and juniors re-examine, and it very much destroys the single-mindedness that ought to conduct business, and the business is not so well done. Well, before the Referees, although it is hard work examining in chief in a great case such as Mr. Harcourt was in, and such as I have been in in the case of the Severn Bridge and the Forth Bridge, still, on the whole, it acts better. It practically comes to this: if you are to have more counsel than one, you must either make it a rule that they shall sit out the whole inquiry, which very few counsel would be inclined to submit to, or you must have it done by one counsel, and then you ensure his attendance. And then, although you cannot have, perhaps, the leading counsel, still you get a sufficiently competent man to get the business properly done. There is another subject matter on which I wish to speak. You say that although you diminish the expense by only allowing one counsel, yet counsel under these circumstances get larger fees. If you are going into such a delicate subject as that, I can only say I do not think they do; and if they do, it is only a question how much upon the brief they choose to give for service rendered; and that is a question I do not think the House will stop to inquire about. I am strongly of opinion that for this tribunal, keeping it as it is, one counsel is sufficient; and I think it is far better to have the best attention of one counsel than to have the divided attention of several. I am quite sure, in the bulk of cases, it saves expense to the parties, which is a very material matter, because if you say you will have more than one, the number becomes unlimited, as it is in Committees. I think you will find that this rule will work well enough when things have got a little more ship-shape. *W. A. Mundell*, Esq.

1181. You also wish to make some suggestions with regard to the *locus standi*?—I have something to say upon that; I think you ought to treat *locus standi* and engineering questions upon precisely the same footing as to inquiry as you do questions before the Examiners on Standing Orders. In other words, these ought to commence and ought to be determined immediately the Bill is lodged, or as soon as Parliament commences its labours; that is to say, as soon as ever you are through Standing Orders, it shall be determined whether engineering questions shall be gone into. I am taking the case of Railway Bills solely, as I

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am best acquainted with them as a class. Then, if a petition is lodged against them for engineering objections (for I think it would be a very convenient thing to have a petition separate for engineering objections from the petition for policy)—if an objection is lodged, then the question immediately arises, have the parties petitioning any *locus standi*. Therefore, that tribunal must sit for the purpose of determining that question. Well, that being determined, the engineering question ought to be taken long before the Bill is read, either the first or the second time; indeed, with Private Bills you might well dispense with the first reading altogether; you might have them introduced by the very deposit; I do not think it would be any interference with the functions of the House if it were so. Then you would take engineering questions, on account of which Committees have been delayed over and over again, as a sort of preliminary inquiry, and you would save the greatest delay and expense, by having the *locus standi* determined long before the witnesses were brought up, and you would have the question of engineering determined at the least possible expense, which is the main object, as I understand, of these inquiries. I must say upon that, the chief difficulty with reference to engineering is this: mixed questions arise where the confines between policy and engineering are of the very narrowest, and it is almost impossible to say sometimes whether a question is policy or engineering. For instance, take the case of the Furness Railway competing with the Whitehaven and Furness Line. It was a question of shutting up a harbour. The question arose as to whether, in the case of access of vessels to the harbour, the mode of access was a question of engineering, or whether their being shut out was a question of policy. For a while it was thought it was an engineering question; then the tribunal veered round, and saw it was a question of policy; and then they returned to their first opinion. But excepting in those cases, where, as in a mixed question of law and fact, a jury is a bad tribunal, this tribunal is a very good tribunal indeed for all engineering questions, as it is at present constituted. I do not go into the question of paid Members. I am quite sure it is the best possible tribunal as to estimates; and if estimates are to be carried out, they ought always to be subjected to a separate tribunal. At present, many landowners come up, and are put to great expense by having to wait until all this engineering and other evidence is given. If it were taken beforehand they would save all the expense of attendance before these Committees, because it is generally the province of a neighbouring railroad to dispute those questions. I also say upon *locus standi*, if any courts are to be occupied upon Saturday at all.

1182. Before you come to that; in that case of the Duddon river you have have just alluded to, that has been brought forward by a witness in this Committee to illustrate the disadvantage of the Referee system; you were in that case?—Yes.

1183. Will you point out to this Committee in that case where the duties of the Referees ended, and where the duties of the Committee began?—The way in which they ended was this: they held that whether you have made a sufficient opening in the bridge across the sands to allow vessels at all reasonable times to come through, was an engineering question; and whether vessels ought to have their access in any way impeded or debarred, was a question of policy for the Committee. That is the way in which it was defined. "We hold," said they, "in an engineering point of view that a given opening of a given size will let vessels up at all times; whether they shall be impeded at all is a question of policy."

1184. The objection raised in this Committee is this: that there were two bridges, one higher up the stream, and the other lower down, and that the Referees reported that one of these bridges was a greater impediment to the navigation than the other. Then it came before the Committee to be decided which line should be adopted; and the objection taken to the system of Referees is this: that the Committee had not the means of judging in connection with the merits of the Bill, which was the best?—That was not really the question, and there was no difficulty about that at all. If the facts were properly before you, and I had a map, there would be no difficulty at all. The first was a very long line of a bridge with certain openings on it which interfered with the harbour at Duddon; the other line was above the Duddon river, and interfered, not with the access to Duddon Harbour, but with the access to the smaller navigation above the harbour. And with regard to the second bridge, it was not a question of which interfered most with Duddon Harbour, but the question was whether the second bridge above Duddon Harbour at all interfered with the naviga-

tion

tion above the harbour; and you will see, if you look to the Report of the Referees, that it was held that it did not. This is as to the Furness Bill, the long bridge across the Duddon Sands. "The railway, No. 1, will cross the Duddon Estuary by an opening bridge, which, from the exposed situation of the crossing would almost prevent navigation, and would have an injurious effect upon the shipping resorting to the Harbour of Borwick Rails."

1185. That is the one objection?—Yes, that is as to Borwick Rails, that is the Duddon Harbour. Then, when you get to the other Bill that I was for, the Whitehaven and Furness Junction Railway, the report says this: "That it was proposed to carry the line across the Duddon estuary for upwards of $2\frac{3}{4}$ miles up a solid embankment, with only 350 yards of open viaduct;" that is to a part above Borwick Rails; "that if so constructed, the effect of the works would be to silt up the sands above the embankment, diminish the area of the tidal basin, and eventually injure materially the Duddon and Barrow channels." Then it goes on to say this: "The Referees do not consider these allegations well founded," that is to say, that it would cause either a silting up, or that it would interfere with the upper navigation, or the same harbour; they were in totally different places.

1186. Interfering with the same river?—But not interfering with the same harbour. The very gist of this observation is, that it interferes with the shipping resorting to the harbour of Borwick Rails. The other did not, because it went above it. "It was proved that the channel of the river where it was proposed that it should be crossed by the viaduct," the Furness Viaduct, "has shifted to the northward 700 feet since the year 1843, and it was alleged that its tendency was still to shift, but it was proposed to fix the channel to the site where the opening bridge is to be made by consolidating the remainder of the sands beneath the viaduct by the deposit of stone, so as to prevent the river from cutting a new channel. It was also objected that the proposed opening of the bridge (36 feet) is much too narrow, and it having been proved that there is a large and increasing trade with the harbour of Borwick, and that the proposed opening bridge is placed in a very exposed situation; the Referees are of opinion that in an engineering point of view, the proposed opening is insufficient, and the works will be defective," and so forth.

1187. That had reference to the lower one?—To the lower bridge which obstructed the harbour. The upper bridge went above the harbour and interfered with a totally different portion of the river.

1188. Do you contend that there was no difficulty on the part of the Committee?—None whatever, except there was this difficulty in knowing whether you should consider the impediments to the navigation as a question of policy or engineering, and which tribunal was to consider them. They have now determined, absolutely, that questions of navigation are incidental to engineering, and must be determined by the Referees.

1189. It is your opinion that that instance is not an instance of the objectionable effects of the system of Referees?—On the contrary, I think it was a case, more than any other, in which great expense was saved by conducting the inquiry separately, because, with the exception of the navigation, the policy and engineering were distinct. There are some questions where policy and engineering are very intimately mixed. There was a case I was in, the Glasgow South-side Railway, and there it was a very great disadvantage that the tribunals were separate. It was a question of interference with streets, of making a new railway station, and substituting one railway for another; and there I think, if the whole question had been before one tribunal, it would have been determined in a more satisfactory manner; I do not say, arriving at a different result; but it would have been determined better in that way than otherwise. Then there is another point with which I differ with the counsel to the Speaker altogether, that is, as to the necessity of altering the 91st Standing Order so far as relates to the form of the report. I quite agree that the framing of the reports has been very laborious, a work of great labour, and I think they have not done it in a proper manner, because they have not attended to the terms of the Order; they are not lawyers, and they do not look at it from a legal point of view. I think it must have been a lawyer who drew up the Order. It says, "So soon as the inquiry into the matters referred to them upon any Bill has been completed, the Referees shall make their report upon the same to the House." That is, of course, they shall state the results at which they have arrived; but they shall do more than that; they shall state "the facts upon which their opinion is founded." Now the

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facts, as I take it, are the results of the evidence, and in all these reports they state, first of all, the contention of the parties, then they state the effect of the evidence adduced; but they never find any facts at all. Now the facts are the result of the evidence. A man comes forward and says, "I can do earthwork at a shilling a yard;" another man comes forward and says, "It will cost eighteen-pence." You must in your own mind decide which is to be believed, and how much it will cost. The fact upon that evidence is, how much it will cost, in your judgment, on the evidence adduced on both sides. But they studiously avoid doing that. You observe, first of all, in the Whitehaven and Furness Junction, they go on to say, "A petition was presented, by which it was alleged;" they state the allegation, they do not state the facts; whereas they need not trouble about the allegations. They go on, "It was also alleged the estimate is insufficient." Then they go on to say, "The promoters admitted;" giving the admissions in the evidence. Then again, in the other report they say, "It was proved that the channel of the river, where it was proposed that it should be crossed by the viaduct, has shifted to the northward" so much; then they ought to say, "We find, as a fact, the channel has shifted" so much. This is the evidence on one side only. There is no necessity to alter the Standing Order, only the report should be framed in conformity with it; it should be just as at common law, in a special case you do not state the evidence, but you state the facts found as the result of that evidence, I think, under that Order, the reports can be properly drawn. I do not expect gentlemen who have not had legal education to do these things, but a well paid clerk, such as is kept in a solicitor's office, would draw these reports in a very business like way in a very short time. There are only two points more on which I will touch: one is, with reference to what has fallen from one of the Honorable Members here as to whether it would not be a shortening of time before the Committees, if both parties stated their case and then proceeded to call their witnesses. What might be done with effect would be this: if, as soon as ever the promoters had opened their case, and had stated the effect of the petitions, the Chairman was to call on the parties to state, "Now what allegations in your petition do you mean to rely upon? What do you mean to insist upon?" I have heard that done by some of the Chairmen, Mr. Hassard, for instance; I have heard him not unfrequently do that, saying, "It is no use our going into a great many matters you do not mean to contest; what do you propose to rely upon?" Then, in fact, you get, in a very simple way, what the parties do really rely upon, and then you will allow them to travel into nothing else, without express leave. There is one other remark: I think it would be a very objectionable thing to constitute any courts which should be fixed tribunals, to consider questions of policy. I think the very advantage of a Committee of the House of Commons is, just as with a jury, to bring fresh minds to bear constantly *toties quoties* on fresh subject-matters. You get the experience of the Chairman and you get fresh minds to bear upon it, and it is astonishing the advantage of having fresh minds, instead of having men who go on in a beaten track, who decide everything by a sort of rule of thumb. Of course it is very well in legal questions, as regarding *locus standi* and engineering, or in questions which require great experience, such as estimates, which require knowledge of figures and a patience to deal with them, to have a fixed tribunal; but upon mixed questions and questions of policy, I am quite sure it will be a very bad thing if we ever reduce the Committees of the House to a fixed standard.

1190. Do you mean to say, if there had been a fixed trial at the commencement of railway affairs, that there would not have been a great many Railway Bills rejected which have now passed?—I think not. I think, perhaps, with Bills which, in their inception, may not have been very well-considered schemes, it has been an advantage, on the whole, that they have been made; the original shareholders have suffered, no doubt, from the looseness of the inquiry as to estimates. I must say I think there is no more important inquiry, whether for Referees or Committees, than the sufficiency of the estimates of the scheme. I think it should not be a thing trumped up by a party for an interested purpose. If the estimate is disputed, it ought to be shown that the money proposed to be raised is sufficient for the purpose contemplated, otherwise shareholders are advancing money upon the assumption that the House has sanctioned a well-considered scheme, when, in fact, they find that a bridge which they said could be made for 300,000 *l.* or 400,000 *l.* cannot be made for 2,000,000 *l.* I think the estimate should always be sedulously inquired into.

1191. Mr.

1191. Mr. *Bonham-Carter.*] Does not that involve the necessity of constant recurrence to Parliament to meet the increased capital required?—Still Parliament is remarkably tender of allowing money to tumble into a river. If you have 500,000 *l.* sanctioned, you come back for 300,000 *l.* more, and Parliament generally grants the powers; you know there is this great work down here, I know it is something about five times the original estimate.

1192. The inference I intended to draw was, whether accuracy, in the first case, would not prevent subsequent views being brought to Parliament?—Oh, certainly, yes; and it would save so much money to the parties, no doubt.

1193. Mr. *Lowe.*] Do you think it is the business of Committees of the House to protect those who may hereafter put their money into these concerns?—I think so. While you should give perfect liberty of action to everybody to propound a scheme, you should not allow them to put forward what I may call a fraudulent statement. If an engineer says he can make a bridge in a given place for 500,000 *l.*, and it cannot be done for 2,000,000 *l.*, I think that is a very wrong thing that Parliament, if it be challenged, should sanction such a scheme. Everybody must watch their own interest.

1194. Could you imagine such a state of things that a prudent man would dispense with the necessity of inquiring into a matter before putting his money into it?—I have seen so many schemes that were utterly foolish that I am afraid imprudent men are more often found than prudent; if ever there is a fraudulent scheme of an Insurance Office got up, you can always get clergymen and women to put their money into it. I was in Leicestershire the other day and a clergyman came crying to me and asked me what he was to do with 100 shares that he had taken in a fraudulent Insurance Company.

1195. Then you think it is the business of Parliament to protect people?—In this way. If the estimates are challenged, and there are always parties enough to challenge them, do not make it a mock inquiry, but a substantial one.

1196. But if they are not challenged?—Then I think you are obliged to let them go; I do not think you can assume fraud, and therefore say, "prove that which is not in dispute." A Bill would pass as an unopposed Bill if there was no one to oppose it.

1197. It is not altogether a question of fraud, but a question of miscalculation?—I use the term "fraud" in its legal sense. Every man who is negligent in what he ought to perform is guilty of a legal fraud. I do not mean it in the sense of a man absolutely coming and doing what is fraudulent.

1198. You think it is the business of the Committees of the House to construct a vendible sort of article?—I think you will find, according to the market price ruling, that the public do look at it as a sort of *imprimatur* upon the goodness of the security.

1199. You think that is a desirable state of things?—I do. Take the common case of a trust deed. Many trustees are authorised to invest in securities which have received the sanction of Parliament or a Royal charter, and that is done very frequently in trust deeds for family purposes.

1200. Do you think many shareholders, when they take shares in these things, know whether the estimates have been examined before Parliament?—I do not think they do, but I think they think the question whether it is a good line or a bad line has been inquired into. I quite agree that shareholders, as a rule, generally, simply take it because they think the market will fall or rise. They are stockjobbers, in fact.

1201. Mr. *Bonham-Carter.*] What is the ordinary time which is given for the construction of a railway?—Five years is the ordinary time; three years for buying the land.

1202. Does not the investigation into the character of an undertaking which is to have powers to take property and engage to perform a certain duty to the public extending over a period of five years; does not the character of the inquiry before Parliament appear to you to be necessary in the interest of those whose property is held in abeyance with regard to their exercise of certain rights during that time?—I think it is one of the reasons why Parliament should be careful; but still there are advantages. A man gets his property in other respects benefited by the fact that the railway is going to take a portion of it.

1203. What I wish to point your attention to is that, assuming that the railway itself passed by Parliament is likely to be beneficial, is it not an important element in their right that the persons through whose property it shall pass shall have some sort of guarantee that the thing will be made, that their property should

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should not be exposed to be taken beneficially or not for a certain time, and at the end of that time find that they have been unable to deal with that property in the same way because the undertaking is not carried out?—No doubt that is analogous to the case of one of those West Sussex Bills before the House as to where the traffic was altogether stopped and the line not worked, although the land had been taken and the parties had sold their land, with a view of having the railway communication.

1204. In that case, even the securities taken by Parliament, that the engagement made by the company should be carried out, and that the interests of the public should be carried out, were not absolutely successful?—Not absolutely successful.

1205. Protection to the persons whose property is subject to that interference in a certain degree is a desirable thing?—I think so.

1206. And that is one of the consequences of close investigation of the estimates?—Yes.

1207. Lord *Robert Cecil.*] I think you objected to widening the powers of the Referees and to their entering into questions of policy?—Yes. In the first place, because the Referees must necessarily be a fixed tribunal. If it is to be of any use it must be a fixed tribunal. I do not care whether Members of the House or not Members of the House, they must be men of experience who give their attention to that immediate subject, and then you make them a fixed tribunal. They would be just like judges. You would never get any fresh popular element, as you have with a jury, infused into that tribunal to consider questions of policy, so that they would get a determinate line of policy which, I think, is very objectionable. I think there may be circumstances which may induce a Committee, meeting for the first time, with two or three independent Members, to take a different view, and a better view for the public. I do not see that this uniformity of decision upon facts is desirable; if so, you might as well sweep away trial by jury altogether.

1208. In your experience, have you often observed the additional Members of the Committee have overruled the judgment of the Chairman?—I have had experience both ways. I remember once having a case where I knew afterwards that four Members of the Committee (except the Chairman) were of my view, and the Chairman talked them over. Then I have heard afterwards in Committee that the fresh Members have worn out the Chairman, and he has given way. However, I do not think there is any uniformity in that. I have known it both ways.

1209. Should you say, generally, the additional Members were a practical element in the decisions of the Committee?—Very much so, particularly with men of good, strong common sense. They are not to be led by the nose by the Chairman; they bow with deference to his experience, but they do not surrender their judgments.

1210. Do I understand you to say, the additional Members are always men of good, strong common sense?—I would not predicate that of 650 gentlemen of the House of Commons, but I trust they are.

1211. What I wished to arrive at was, whether you extend your disinclination to allow the Referees to entertain questions of policy to those Bills which are more in the nature of suits between railway companies than real acts of legislation?—Well, if you would give me an instance I would give an opinion, but that is a very large proposition; I cannot picture to myself an instance of a Bill where it is like a suit between two railway companies.

1212. Two railway companies, in joint possession of a station, quarrel as to the use to be made of it?—There was a Bill of the Perth stations, this year, very much to that effect; that was simply a question which it would have been a very good thing, indeed, if an Act could have been passed, compelling them to refer it to arbitration.

1213. The Referees might be arbitrators?—It would be a far more convenient thing to refer it to an engineer on the spot. There are some cases of the sort which are very fit for arbitration, I admit.

1214. Quarrels about running powers?—That is a very grave question of policy, in my judgment; I should look upon that as a matter peculiarly fitted for a tribunal such as a Committee of the House of Commons. I would sooner have such a question before a Committee than have it discussed before the Referees; I think they have held that is not an engineering question.

1215. Questions of public safety are not engineering questions?—No.

Jovis, 15° *die Junii*, 1865.

MEMBERS PRESENT:

Mr. Edward P. Bouverie.
Mr. Bonham-Carter.
Mr. Ennis.
Mr. Milner Gibson.
Mr. Ingham.
Mr. Lowe.
Colonel Wilson Patten.
Lord Stanley.
Sir John Shelley.
Mr. Thompson.
Mr. Woodd.

COLONEL WILSON PATTEN, IN THE CHAIR.

Michael Dobbyn Hassard, Esq., a Member of the House, further Examined.

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1216. *Chairman.*] WILL you take this Return in your hand; it is a Return from the Committee Office of the number of opposed Bills before Committees in the four Sessions of 1862, 1863, 1864, and 1865; and also of the number of days occupied by opposed Bills before Committees, up to the 31st of May in each Session. Will you look at that Return and state how much in the aggregate the examinations have been abbreviated in the present Session, as compared with the three former ones?—I had better state the number of Bills actually opposed. The number of Bills opposed before Committees, and upon which decisions were given, up to and including May 31st in each year, in 1862, was 104.

1217. How many days did they occupy?—The Committee sat upon those Bills an aggregate number of 386 days in 1862. In 1863 there were 85 opposed Bills before Committee, and the Committees sat for an aggregate number of 251 days. In 1864 there were 128 Bills opposed before Committee, and the Committee sat for 344 days.

1218. In those three years I believe that each Bill, on the average, occupied upwards of three days?—I have not worked that out myself, but it appears to be so. I have no doubt that that is correct.

1219. How many Bills were opposed before Committees in the year 1865, up to 31st May?—191.

1220. How many days did they occupy?—417.

1221. That, I believe, on calculation, is a fraction above two days for each Bill?—It is a small fraction above two days.

[*The following Paper was delivered in:*]

	1862.	1863.	1864.	1865.
Number of Bills opposed before Committees upon which decision has been given up to and including 31st May.	104	85	128	191
Number of days upon which Committees on opposed Bills have sat up to and including 31st May.	386	251	344	417
Number of times on which the Chairman has given a casting vote.	–	–	1	7

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1222. I believe that you wish to put in an explanation of this, some evidence which has been given before the Committee?—I think that Mr. Phinn and Mr. Coates both fell into a few errors, no doubt, from their being so much occupied with other matters, that they did not look very closely into some of the matters as to which they gave evidence. Looking at Question 295, Mr. Phinn seems to think that the Referees do not report upon the nature of the country through which a line is proposed to pass. He says, "It is almost absurd to require the same engineering for a mineral line as for a great through passenger line." Now, I have here a number of reports of the Referees, but they are only a few selected from the mass, where the nature of the country is distinctly alluded to. There is the case of the Central Wales and Staffordshire Junction Line, in which the report contains the following passage: "The nature of the country renders it very difficult to approach Bridgnorth with a good gradient." In the case of the Aboyde and Braemar Railway Bill, also, there is the following statement: Generally that in a narrow valley already traversed by a road and a river, it was not possible to carry the line otherwise than as proposed." You called Mr. Phinn's attention, I think, to the case of the Vale of Crickhowell Railway; there is also the Afon Valley Railway Bill, in which the report says, "With reference to the objection that the railways are laid out at too high a level, it was stated that they have been laid out with a view to give easy access to coal workings." In the Midland Railway (Barnesley to Kirkburton) Bill, the report says, "These are very heavy and expensive works, but they are required to obtain good gradients, and the line passes through a difficult country, and the estimate is not objected to." I shall not trouble you with more; there are many more, but I have merely taken those cases. Then, at Question 299, Mr. Phinn also objects to the manner in which the estimate is found; he seems to consider that that objection turns upon the Referees not finding by how much the estimate is deficient. In the case of the Bute Docks Bill, the real question was whether any estimate at all was required, for no power was taken by the Bill to raise any capital whatever, the expense being to be defrayed by the trustees of the Marquis of Bute, but still there was a sum set out in the Bill as an estimate of the works, and with that, and that alone, the Referees had to deal; and they simply reported in that case, that the estimated sum in the Bill was insufficient; but I know from what occurred in the Committee (and I may say that it was mentioned to me by the Chairman), that the real question was whether any estimate at all was required:

1223. That is a case in which a little embarassment has arisen to parties from the divided jurisdiction, is it not?—No, because still the same question as to whether an estimate was surplusage or not would have been determined by the Committee, the Referees not having decided upon it, and not having anything to do with that question. In answer to Question 355, Mr. Phinn seems also to state that it is a defect, that the Referees when they determine that a junction is a bad one, have not the power of saying, "If a good one can be made, and if you undertake to make it, and put a clause in the Bill to make that junction, we shall be satisfied." Now I have a number of reports here, in which junctions are reported to be bad; and in those cases the modes of getting over the objection have been suggested to the Referees; the Referees have reported specifically what amendments were proposed, and they have reported in many instances that such a modification, if sanctioned by the Committee, would get over the defect; I have three or four of the reports here. In answer to Question 313, Mr. Phinn speaks with regard to silting up the access to the Penarth Docks; that was also in the case of the Bute Docks Bill. In that very case the Referees not only reported the effect of the dock upon the silting, but they reported in these words: "The Referees are of opinion that there is at present a certain amount of silting going on on the Penarth and East Mud Flats; but they do not think that the execution of the proposed works will have any sensible effect upon the same," so that they specifically reported on the silting effect.

1224. Was Mr. Phinn's objection to that particular point?—His objection was that the Referees had not reported upon the effect on the entrance to the Penarth Docks; but they even did more than that, because they reported—"Should any part of the waters of the Taff be diverted for the use of the proposed dock, an injury will be caused to the Penarth Dock by the probable silting up of the entrance to the same. But the undertakers declare that it is not their intention

intention to divert any of the said waters, and no powers are taken in this Bill to do so." So that they specifically entertained that question of obstructing the entrance to the Penarth Dock. In answer to Question 326, Mr. Phinn makes the observation that the inquiry into traffic is practically obsolete. Now, that is not the case. I have no doubt that, if he had considered what he said more accurately, he would have found that that is not the case. Almost the entire question which arose last year, in the battle between the Great Northern and the Great Eastern Companies, as to a new coal line into London, depended upon that matter. In answer to Question 361, Mr. Phinn, in his evidence, makes the statement that the Referees do not point out the mode of obviating an objection as regards drainage. The following question was put to him, "Is it not undesirable that the Court of Preliminary Inquiry, before whom the whole case is not placed, should, by a report such as you refer to, destroy it at its outset; that is with regard to drainage?" Now it is not the case that the Referees do not report upon drainage. I have the report here in the case of the Edinburgh and Glasgow Railway Bill (No. 2), in which there is the following passage, that was a case in which the Corporation of Glasgow appeared against the Bill, "It was complained that by the construction of the said railway the proper drainage and sewerage of the district, to the north thereof, would be prevented"; and here is the paragraph of the report which relates to that matter, "By the construction of an intercepting sewer at the north side of No. 1 Railway, the drainage of the district in question can be completely preserved and carried into the existing outlets." There are also other cases which I know of in which the Referees have treated of the objections in the same manner, so as to supply that defect. In answer to Question 404, and subsequent questions, it was objected that the Referees did not go into alternative lines, and into competing lines. I have in my hands the reports in the cases of the East and West Junction Railway Bill, and the Bedford, Northampton, and Weedon Railway Bill, and each of the reports reciprocally states that they are competing lines; and having heard those cases myself, I can state that the two Bills were purposely kept together, and were heard consecutively in order that the reports of the Referees might go together, and in order that the attention of the Committee might be called to the fact that they were competing lines, and the peculiarities of each are set out. In fact, in one case, which is too long a case to put upon the Minutes, actually every gradient, from the beginning to the end of the line upon each line, was furnished by the promoters of the respective Bills in a table to the Referees, and they put those tables into the report, so that the Committee should be enabled to place them side by side and compare them.

1225. Sir *John Shelley.*] Did you go into the question of competition in that case?—Not further than that; we could not do so under the Standing Orders All that we could do was to inquire into the engineering details; but after finding those facts we left it to the Committee to decide which line was to be preferred.

1226. *Chairman.*] You gave them all the particulars, leaving the Committee to form their judgment as to which line was the best?—Yes.

1227. Sir *John Shelley.*] Was that the rule generally adopted by the Referees?—Yes, I may say that it was. It so happened that the other court being occupied with questions of *locus standi*, I heard two-thirds of the cases.

1228. With reference to the question of competition, which is a question of opinion, and not of fact, you consider that the Referees would leave that for the Committee to decide?—They have always done so, calling their attention to it; and the reason why they have done so is, that all they could do was to find the fact, because they could not find whether the Preamble of either Bill was or was not proved, which really was the only way of determining the question, as to which line was to be preferred. In answer to Question 438, Mr. Davison mentions that a difficulty arose with regard to closing up a street. In that case I recollect that the Referees went into the questions, with regard to the stopping up of the street. It is the same Bill as that in which the sewage was concerned. They found all the facts, with regard to the stopping up of the street, and why the street could not be carried under or over the proposed line. In the case of the Midland Railway (New Lines) Bill, which related to a street in Bradford, here is the finding. It is referred to, I think, in the answer to Question 443. The petitioners complained

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that the promoters of the Bill proposed to stop up and discontinue and appropriate to the purposes of their undertaking a street in the Borough of Bradford, called Commercial-street, and also a public footpath leading from School-street to Canal-street. The petitioners stated that Commercial-street, was an important and public street, and afforded the most convenient access from that part of the borough which is situate towards the south of the Midland Station, with Railroad-street, Canal, and Seeming-street, and the district of the borough lying to the north-east of the said station." It was objected that the question turned upon gradients, and that the Referees did not report the particulars; they reported "Commercial-street, has a descending gradient of 4 feet towards Railroad-street, and Canal-street; but if it were stopped up, the traffic from the south-west must be carried a greater distance to these streets, by passing along Mill-street, and up School-street, which has a gradient of 1 in 13." Then it was objected that the Referees had merely reported that there was no engineering reason for closing the street. They reported the existing state of the street, and they then stated, "The promoters represented that the increase of distance by Mill-street would not be above 30 yards, and that the gradients of School-street, would be to some extent improved by widening it as proposed to 70 feet at one end, and 90 feet at the other. The Referees are of opinion that there are no reasons in an engineering point of view for stopping up Commercial-street, and the footpath." That was all that they could find, but they left the Committee all the elements from which to deduce their conclusion, they gave them the gradient of the existing street, and what was proposed to be done. In answer to question 494 on the same matter, Mr. Coates objected that "the Referees declined to enter into the question of the adequacy of the substituted line," that was where a coal line was proposed to be substituted for an existing line.

1229. In the Bradford case, what did the Committee do?—They went on with the inquiry; in the case of the opposition as to the street in Bradford, there was a body of the Town Commissioners, and I understood from a witness that they got a sum of money to make a new street, and that the matter was so settled; the Committee heard the question on the merits, and the parties came to an agreement, the promoters paying a sum of money to make a new street in lieu of that to be stopped up. With regard to the coal line, which was also in the Midland Railway (New Lines) Bill, Mr. Coates objected that "The Referees declined to enter into the question of the adequacy of the substituted line;" that was the coal line. Here is the finding of the Referees: "The line proposed to be acquired, and to be substituted, is a short locomotive mineral line unsanctioned by Parliament; the maximum gradient upon it is 1 in 78, and there is one curve upon it of 10 chains, which, it was stated, might be improved. The line may be made so as to be fit for passenger and goods traffic, and there is no engineering objection to it." The Referees went into the gradients of it, and they found the facts. I think that what Mr. Coates is mistaken about is, that we refused to go into the gradients of the existing line, but the specific reason upon which we so refused was this: we said "You do not require it; you have better evidence than any which you can give to us; you have the Act sanctioning the line, and you have the deposited plans and sections upon which that Act was founded, and which show the existing gradients upon it, and that is better evidence than any other evidence which you can offer to us." In answer to Question 693, there seems to be some doubt upon the mind of Mr. Gregory as to the Referees going into the question of supply in Water Bills. The Referees have gone very largely into those questions. I may take the Birmingham Water Bill and the Glossop Water Bill, the Glossop Water Bill, I think, especially; they found how the reservoirs were supplied from the Blackshaw stream; they found the quantity of water to which, under the existing arrangements, the millowners were entitled; they found the amount of diversion of water which was proposed, and they found the mode by which a proper supply of water could still be preserved to the millowners; and I think that this illustrates very well the observation of another witness (I forget who it was), that in some cases, especially in Water Bills, the suggestions of the Referees were turned into clauses, securing the mode of supply to the opponents, who are generally millowners, and that by that means further opposition to the Bill was obviated; those clauses being agreed upon, I did not complain of any of those matters.

1230. *Chairman.*] We understand that your object is to meet the objections which

which Mr. Phinn and some other witnesses have made?—Yes; of course I am more familiar with the nature of those reports, having so recently heard the cases and read through them, and it is not to be supposed that they can be so intimately acquainted with them.

1231. Sir *John Shelley.*] Was the result of that decision to prevent that Bill going before the Committee?—I do not know what became of that particular Bill, but another witness gave evidence to that effect.

1232. *Chairman.*] Have you any other observations to make?—I would wish to make an observation in relation to the proposal made by Mr. Rickards, with regard to selecting a particular class of Bills, which should be wholly dealt with by the Referees, if it should please the House to continue them; I think that Gas Bills are especially a class of Bills which can be so dealt with. In the case of Gas Bills, at this moment, there is no reason why persons should not carry out gas works without an Act of Parliament, except for two particular causes; one is, that by want of a charter of incorporation they cannot hold land and transmit it from shareholder to shareholder without a deed of assignment to pass the legal interest, which is very inconvenient; and the other is, that no matter what consents they get from the authorities of the country, they are liable to be indicted if they should break up a road or a street.

1233. There is one other circumstance connected with gasworks, namely, that very often a gas Bill is promoted in opposition to an existing gas company?—Yes.

1234. Then does it not become a question of legislation?—With great respect, I think that that is merely a question of competition, and, as far as that competition does not create inconvenience by breaking up a road, I would respectfully say, that I do not think that the Legislature has very much to do with it. The breaking up of a road is the main difficulty, and the Right Honourable Gentleman, the President of the Board of Trade, I think will recollect that I have often urged upon him the great advantage of passing some public Act, which would empower the local authorities to authorise persons to break up the roads and interfere with them in this manner; because I know myself that many small towns are now debarred from having the advantage of gas merely from the expense of an Act of Parliament. In some cases 2,000 *l.* would procure the gasworks, but they cannot afford to spend 500 *l.* or 600 *l.* in getting an Act, and to this hour they are without gas entirely upon those grounds. I think I am right in stating that the main difficulty is that of breaking up the roads, because I think in the Longton Gasworks' case it was decided that, though they had the consent of every person really interested in the subject, the lord of the manor, and the overseers and authorities of the parish, still the parties were indictable for opening the road.

1235. Mr. *Milner Gibson.*] Have those authorities no power to consent?—In the case of the Longton Gasworks, a man was indicted for a nuisance for breaking up the road. He had the consent of the lord of the manor. There are town commissioners; he had their consent, and also that of the Surveyor of Highways; he had their formal consent; but he was indicted and convicted at, I think, the assizes. It was taken before the Court of Queen's Bench, and there, on the 25th February 1860, the conviction was affirmed.

1236. Who were the parties who prosecuted him?—A rival gas company. It is the deciding case, I think.

1237. Would you have an Act passed similar to the Railways Construction Act, to the effect that where all parties agree power shall be given at once?—I should go much further; I should say that where those parties who are interested in preserving the roads gave their consent, the persons applying to do those particular works should be able to do them.

1238. In fact, you would extend the provisions of the Railways Construction Facilities Act to gas and waterworks?—I would; I should go even further, because, as I recollect that Act, it only gives to the Board of Trade the power of authorising the thing to be done; but I think that the local authorities ought to have the power, just as they now have, to authorise a man to open a sewer in connection with his house; you break up the street only for a moment under certain conditions. In water questions it practically almost always comes to be

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a question of engineering. Of course, it may be a question of policy as to who shall have the conduct of the waterworks; but I think that in most cases the question is, whether the Treasury will authorise the Corporation to borrow money for the purpose.

1239. Mr. *Lowe.*] I understand you to approve of having an investigation into engineering and estimate?—Yes.

1240. On what ground do you think that those questions ought be inquired into?—I think on the ground that, generally speaking, in the case somebody's interest is concerned, or else the Bill goes as unopposed. If the engineering of it be defective, I think that the party opposing it has a right to give evidence of that, and to show that the scheme is defective, so that his right should not be interfered with.

1241. It is the public interest, I suppose, which is concerned in the engineering and estimate?—The public interest, in almost every instance that we know of, is protected.

1242. If that is so, do you think that it ought to be left to the chance of an opposition, or that it ought to be inquired into in every case, as a matter of course?—If you can find a party to inquire into it, I think that every scheme should be inquired into.

1243. You cannot oblige people to take it upon them?—No.

1244. Do you think that there ought to be a public officer for that purpose?—I think that that would result in nothing being done.

1245. Is it not now an indefensible position; if it is for the public interest it should be done in every case, and if it is not for the public interest it ought not to be done at all?—I think that practically that is the case with almost everything which is done. In the case of making a new road, unless some one opposes it, the Bill is very little canvassed, but some one is found who has an interest in either opposing it, or in seeing that if it is carried through it is done in the best possible manner.

1246. You think, that upon the whole, that is the best way of protecting the public?—I think that practically it works so.

1247. Lord *Stanley.*] Does not it come to this, that if there is only one scheme, you presume that the promoters understand their own business, and that there is no reason for questioning their estimates; and that if there are two schemes you have to consider which of those two is in every respect superior?—No; because, if there be only one scheme, it may be a scheme faulty in itself and may necessarily do injury to a person, or it may not afford that advantage to the country which it should do. Taking the case of a road, but one road may be proposed; it may perhaps suit a particular person to make it, but it may do an unnecessary injury to an individual. If that road be made in another place it may be infinitely more justifiable than in the mode proposed, though there is no rival scheme.

1248. Mr. *Woodd.*] Do you not think that the possibility of an opposition being got up to a scheme, whether an opposition ultimately results or not, is likely in all cases to make the engineer more careful?—Yes.

1249. Mr. *Ingham.*] Is the public interest always unprotected where there are no opponents; do not the Board of Trade, in the reports which they circulate, take notice of the engineering, and is not there a Standing Order that the Report of the Board of Trade shall be noticed by any Committee, and that the Committee shall say what they have done in respect of that report. I believe that that is equally the case whether the Bill is opposed or unopposed; for, if it goes as an unopposed Bill, there is a Report of the Board of Trade as to levels and so on?—I speak of course under the correction of the Right Honourable President of the Board of Trade, but I do not know that a local investigation is made in the case of an unopposed Bill. If there be an interference with a navigation or anything which is apparent on the face of the Bill, the Board of Trade take it up, or if there be an omission in the Bill to incorporate the general clauses which protect the public, the Board of Trade call attention to it; but if there be a local defect in it, I do not think that the Board of Trade have any knowledge of it.

1250. Mr. *Thompson.*] When there are two competing lines, you are aware no doubt that there are cases in which the promoters of competing lines have agreed

agreed not to oppose one another upon Standing Orders, and unless the Referees inquired more strictly into the matters of engineering detail than they have done, would it not be likely that in a case where both parties were conscious that the facts would not bear the scrutiny of the Referees, they would agree by common consent not to oppose one another before these courts, and would it not therefore be important in the public interest particularly, as affecting questions of public safety, that the Referees should have a control over unopposed Bills?—Yes, but I am afraid that, practically, you cannot carry it out. That thing is frequently done, not only before the Referees, but in the committee rooms themselves. We know that very often a compromise is made, and that very likely bad lines may pass, but when the opposition is withdrawn, we are obliged to let the Bill go. It goes before the Chairman of Ways and Means as an unopposed Bill, and he would be the person to take cognisance of it, but we know that, practically, the thing is impossible; without a staff of engineers, it could not be done.

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William Vernon Harcourt, Esq., called in; and Examined.

1251. *Chairman.*] YOU have practised before the Court of Referees during the present Session, and also before the Select Committees on Private Bills?—I have.

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1252. Will you favour the Committee with your opinion upon the results of the Court of Referees during the present Session?—I should wish, in the first instance, to say that it is impossible to express too strongly my opinion of the extraordinary work which has been done by the Referees in the course of this Session, both in respect of the stupendous industry which they have shown, and the great ability which has been brought to bear upon the questions with which they have dealt. All I have to say is, that if you could find a sufficient number of persons to constitute Committees, as efficient as the Courts of Referees, the whole system would be superfluous, because I do not suppose that anybody would think of removing from a body so constituted the consideration of the whole of the question which is to be decided. I have been before the Referees in cases of the greatest possible consequence, and the only feeling which I have had is one of regret that after gentlemen of such competence to deal with the question have gone into the inquiry in a most elaborate manner, just at the moment when the matter is ripe for a final decision, it should be withdrawn from them and carried before another tribunal which has necessarily a much less acquaintance with the question upon which it has to pronounce.

1253. Your view is, that the defect of the system is that there is a double inquiry?—No doubt; it seems to me that that is a fundamental defect, because, after all, the judgment which is formed upon any class of human affairs consists in estimating the balance of the advantages and disadvantages; and, by the present process, you refer the advantages to the consideration of one set of minds and the disadvantages to the consideration of another. Through the medium of a report, you, no doubt, endeavour to combine the two, but you must do it necessarily extremely unsatisfactorily. For instance, I was engaged in a case of considerable consequence: the great bridge over the Severn. The only question which had to be discussed before the Court of Referees in that case was the amount of injury which that bridge was likely to do to the navigation of the River Severn, and, consequently, to the trade of Gloucester. That investigation was conducted by the Referees with extraordinary assiduity and ability, and a report was drawn up, which, I believe, was as well drawn as a report could possibly have been, but what was the result? The court were obliged to pronounce (which was unquestionably the fact), that a certain amount of inconvenience would be caused to the navigation, and, consequently, to the trade of Gloucester; but, they added, that in their opinion, if the advantage to be produced by the line were very great, that injury would not be, I think the phrase was, of a "serious" or "very serious" character. But then every thing depends upon the knowledge of what the word "serious" means. Now, the persons who had had conducted the investigation, of course, formed their own opinion, and their own judgment of the meaning of the adjective

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"serious;" but the persons to whom the final decision was referred had no means of judging of the amount of inconvenience which was involved in the word "serious." And so I have frequently seen it stated in the Reports of the Referees, that, in their opinion, there will not be any "very great" or any "sensible" injury.

1254. In the case of the Severn Bill, was it hotly contested before the Committee?—I was coming to that when I spoke of the amount of fresh inquiry which was involved; I am perfectly satisfied that an additional day, or even half a day, would have finished the inquiry before the Referees; and they would certainly have come to a conclusion as satisfactory as any which could have been desired. It was sent before the Committee, and, of course, there was an attempt, on the part of those to whom the report was adverse, to re-open the question as much as they could. The Committee, of which I see the Honourable Chairman here, of course restricted the inquiry as much as they could, but it was naturally very difficult to do so; it being reported to them that there would be an amount of inconvenience, though not very serious, they had to make up their minds as to what was that amount of inconvenience. And I believe that in many of the reports the Referees use the words, that there will be a certain amount of inconvenience. Then, the Committee have to form their own opinion of what the word "certain" means, which it is necessarily a difficult thing to do. It seems to me that if you could ensure to yourselves a sufficient number of persons constituting Committees, who have the experience and knowledge which the gentlemen who constitute the Court of Referees possess, there could be no possible object in remitting the final decision to any other body of persons.

1255. You have adduced the Severn as an instance; can you give the Committee any other instance in which you think that the investigation before the Committee has been prolonged by the want of a proper definition of the duties of the two tribunals?—It must always be prolonged to a certain extent, because you cannot fix any line so definite that the one does not more or less overlap the other; and one of the objections, as far as I have been able to judge of the method of working the system, is the want of an accurate definition of the limits of the inquiry of the Referees. First of all, at the commencement of the Standing Order, there are the words, "The efficiency of the works for the object proposed." Of course, the first thing in an inquiry before the Referees is, for the promoters to state what the object proposed is. Now the object proposed is essentially a question of policy which is assumed to be reserved for the Committee, and yet, by the very definition of the Standing Order, the inquiry of the Referees must necessarily be based upon a consideration of the object proposed. In the case of the Severn Bridge, in opening the case, the first thing which I had to state was, that the object was to carry, by a line of better gradients than any which at present existed, the heavy mineral traffic of South Wales. No doubt the line accomplished that object; but the Referees considered themselves excluded from the consideration of what the character of the existing lines was, and what the character of the gradients on those lines was, which was just as much an engineering question as the character of the line before them. Therefore, certainly the present state of the definition of the province of the Referees is extremely arbitrary. It is quite obvious that the efficiency of the works for the purpose proposed depended upon showing that no other existing, or even probable and preferable system, could be devised for accomplishing the same object; but, at the same time, by the limits which the Referees considered to be imposed upon themselves, they felt themselves bound to exclude all those considerations. Then there came, of course, before the Committee the question of the character of the existing lines, which was just as purely an engineering question as that which had been previously referred to the Referees. Therefore, practically, as the thing works at present, you have not succeeded in winnowing out the whole of the engineering from the cases, because the moment that any question of comparison arises, the engineering is just as much for the Committee as ever it was before. So, with reference to alternative lines, or suggested lines, the Referees do not report upon them, and, therefore, it remains for the Committee still to report upon the engineering of those alternative lines.

1256. Have you found, during the present Session, that the Committees themselves have entered into alternative lines in many cases?—I think that there

there have been some examples of it; and that there have been cases in which those questions have been entertained: and I think that the Honourable Member for Knaresborough will bear me out, that some evidence was attempted to be given even in the very Severn case on the subject of a line which had come to an end, where a tunnel had been proposed under the Severn.

1257. Is it not your experience that the Committees this Session have almost invariably set their faces against the entertainment of alternative lines?—I am afraid that my recollection is not sufficiently accurate upon that subject to be able to give a satisfactory answer; I certainly know cases in which they have been entertained, and I also know that the Referees have made a rule that it is not within their jurisdiction to inquire into them; at least, that is my impression.

1258. Sir *John Shelley.*] Should you say that, in a public point of view, it is better that those alternative lines should not be considered?—I do not know that my opinion on that subject is worth much, but, such as it is, my opinion is that if an alternative line were exhibited by any person who was likely to make that alternative line, it would be a very proper thing to be considered. An alternative line suggested, without any definite prospect of any one constructing it, is of course a mere waste of time. With reference to the question of the Honourable Chairman, I remember at this instant a case in which an alternative line was partly gone into; that was a case in which I was concerned, where the Glasgow and South Western Railway Company were promoting a new line from Glasgow to Greenock. The Caledonian Railway Company opposed that line, and they suggested a different line, which was gone into more or less.

1259. *Chairman.*] How is it possible for a Committee properly to conduct an investigation into the merits of a line, of which no plans have been deposited and examined, and which is only brought before the Committee for the first time?—Of course there is a rule upon that subject, that the opponents must state it in detail in their petition, and I have always understood that the rule has been that it is competent to a person who states an alternative line in his petition, to set it up, and that the Committee will investigate it. Most decidedly, in the case of the Greenock Line, it was investigated, and I remember at considerable length. The distinctions are rather arbitrary which seem to have been taken in some of these matters; for instance, in the very case of the Severn Bridge, it did not seem at all clear why the question of injury to the navigation was a question for the Referees as apart from the Committee; it certainly was not a pure question of engineering; it did not seem more specially a question for the Referees than the injury produced to the estate of a landowner by the making of the line; it was an injury to certain traders, namely, the traders of Gloucester; it did not arise specially upon the particular character of the bridge, but generally upon the interposition of any bridge at all. But at all events, even if it had turned upon the specific character of the bridge, I find it difficult to distinguish between that case and the case which is made by a landowner of injury to his estate by a railway being made through it, which the Referees have considered it is not within their province to discuss. It operated, also, in another way, which was this: that whereas the rule pursued generally had been to call upon the opposition to proceed first to state their objections to a scheme, in that case (I do not know exactly for what reason, but I believe, probably, because the deposited plans, in the case of viaduct or bridge, do not show the nature of the work with the same accuracy as they do in other particulars) the promoters were called upon to proceed first, which placed them, of course, under very great difficulties, because they did not know the nature of the objections which were to be advanced against them. All these things, of course, are matters which are capable of being corrected by the laying down of more definite rules for the future. The other objection which I have stated is one, of course, which goes to the principle of the matter.

1260. Nearly all the objection to which you have now adverted might be accommodated by a sort of code of decisions by the Court of Referees?—No doubt.

1261. At the same time, you lay great stress upon the impossibility of altogether correctly defining the relative duties of the two tribunals?—I have found it extremely difficult myself to found an opinion upon what after all must be a very imperfect expression of the general effect on the minds of one body of men, which is intended to govern the decision of another body of men.

1262. At the same time, that it has been up to a very late period the practice of the Courts of Law in Westminster Hall, has it not?—In what respect?

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1263. That the Court of Chancery has sent down facts to be tried by the Court below, the verdict upon which facts has influenced the decision of the Court of Chancery in the disposal of the case before it?—That is so; but generally that issue of fact sent from the Court of Chancery is a much more definite issue than anything which can come before the Referees. One of the most ordinary kinds of issue is, was such and such a person of sane mind or not? Then the Court of Law finds that he was or was not insane. That is a definite fact which you can deal with, and there the consequences to property follow as a matter of course. But I do not think that you would ever find the sort of mixed decision which you have in the report of the Referees; for instance, you would not find a report that a man was "more or less mad," because it would extremely puzzle the Court of Chancery to determine what they should then do with his property. I should wish to add that, by the recent issues in the Court of Chancery, by which the Court has provided a machinery for taking oral evidences, the necessity for, and the practice of, issues at law has been much diminished, so that the tendency has been, in experience, to get rid of the difficulties of a separate inquiry.

1264. At the same time, is it not the case that the Court of Chancery has had to regulate its decision by the verdict of the Court below, and to exercise its judgment upon the facts ascertained by the Court below?—Yes; but all those must, I think, be absolute facts, and not qualified in any way. Supposing that the Referees were to find "This line is a bad line," I can understand that such a finding as that would absolutely govern the Committee, and they would have nothing to determine after that. But that never can be done in questions of this sort; they are questions of degree, and the moment you come to a question of degree it seems to me to be extremely difficult to refer one part of the question of degree to one body of men, and the other to another body of men.

1265. I understand you to say that, in the case to which I have just alluded, the Court of Chancery never has to decide upon the degree, but that it is merely upon the bare fact itself?—It is a very dangerous thing to assert a negative, because one may be confuted upon it; but that is my impression of the nature of the issues out of Chancery, that they are to find some definite fact. In the example which I have given it is always as definite as this—Was A. B. of sound mind on such and such a date? (giving the actual date). That finding is certain; it is a definite finding, upon which a precise conclusion is arrived at. So with regard to the Referees, if it were a question of their simply finding facts, say that a gradient is of such and such a character, or that a curve is of such and such a character, it would be different; but they cannot and do not confine themselves to that; they proceed to say, "No doubt this is not a very good gradient, but it may be sufficient for the purposes which the line proposes to carry out." You will always find throughout those reports that they are necessarily, from the nature of the questions, of a modified character.

1266. Do you not think that it materially diminishes the time occupied in the investigation before the Committee, that the Referees shall take the engineering facts of the case, and report that they see inconveniences in the plan suggested, but that those inconveniences are not sufficient to prevent the line being carried?—I can hardly see how they could absolutely say that, because, if it should turn out that the advantages, which are not before them, are small, then the inconvenience of the line, though it might not be great, ought to be sufficient to prevent the line being made; that is the difficulty. You introduce the words, "not sufficient to prevent the line being made;" but how can you tell whether the inconveniences are sufficient to prevent it or not, unless you know what the nature of the advantages to be derived from the line is? And that is the very thing which you have removed from the consideration of the Referees.

1267. I will, for instance, take the crossing of a valley by a viaduct. Supposing that the Referees were to say, "There are inconveniences in crossing this valley; but, as the result of our investigation, we find those inconveniences not to be sufficient to prevent the work being carried on, if the Committee afterwards shall think fit to sanction it," would that to that extent obviate the necessity of an inquiry before the Committee?—It seems to me that the word "sufficient" is necessarily a word of comparison; the thing is sufficient with reference to something; any inconvenience, if there is no counterbalancing advantage, is a bad thing.

1268. Does not such a report as that leave the Committee at liberty to exercise their judgment entirely upon other matters, and upon the relative merits of the

the line, in other respects?—No doubt. If it is a pure question of engineering, it then does not seem to me to be necessary for the Referees to introduce such an observation as that, because they may say, "There is no objection to the viaduct." If they are competent to form an absolute opinion upon the subject, then the natural course is to state distinctly, "There is no objection to the viaduct." *W. V. Harcourt*, Esq. 15 June 1865.

1269. The question which I ask is this: If you state that a work may be carried out if the Committee on other grounds shall think fit, and that the objections are not sufficient to prevent it, does not that at once relieve the Committee from the consideration of the particular grounds which the Referees have had to investigate, and leave them at full liberty to consider the remaining merits by themselves?—With great submission I should say not, because it involves the suggestion that there is a disadvantage which is to be countervailed; then the whole thing must turn upon the question of the balance between the two. If there is no objection, then, of course, you need not state it, and you may say that there is no objection to the line.

1270. Does it necessarily follow that it must be removed?—I should say so, unless there is something to counterbalance it, and then the Referees would say, "We report that there are objections, but not sufficiently great to prevent the work being carried on."

1271. Not sufficiently great to prevent the work being carried on if on other grounds the merits should induce the Committee to come to such a decision?—If I had such a report before me the first question which I should put to myself would be, what are the advantages and the objections?

1272. Is not that an objection which may be raised by a counsel, but which is not necessarily incident to the investigation of the Committee?—I was not speaking of myself as a counsel, but as a Member of the Committee; I should say to myself, "Here is this advantage to be gained by the line. I do not think it a very great advantage, but still if there is nothing against it, let the line be passed." Then the next question which I should necessarily ask myself is, what is the disadvantage on the other side? Then I am met by the ambiguous phrase in the Report containing an admission that there is a disadvantage on the other side, but I have to measure it.

1273. Why should you say that it is necessary to investigate that, when it has been investigated before by a competent tribunal, and it has been reported that it is not an obstacle to the work being carried on?—It is not an absolute impediment, but if there is an objection to the scheme I should have thought that every objection was an obstacle in a certain sense; that is to say, that it was a drawback unless there was something to countervail it.

1274. Sir *John Shelley*.] It is a qualified approval, in fact?—Yes.

1275. Mr. *Milner Gibson*.] The Standing Order says, that when the Referees give such an approval as you refer to, they shall accompany it with the facts upon which that opinion is founded. If they did that, you would be in possession of the exact facts, and would be able to judge what was the real amount of the disadvantage?—If you are in possession of the facts the other process seems to be superfluous, as far as any judgment on the part of the Referees goes.

1276. As I read the Standing Order, what is called the opinion of the Referees, or the inference drawn from facts, is something which they may give or not; but that is not a part of their report, which is conclusive upon the Committee, but merely the facts upon which the opinion is founded are conclusive, and no further evidence is to be taken upon them?—No doubt; but that would merely be that the Referees should take the evidence, and report the evidence. If that were the idea, the report of the Referees would become superfluous, and all that the Committee would have to do would be to read the evidence, and judge upon it.

1277. I suppose that the jurisdiction of the Referees is to be considered as defined by the Standing Order; they derive their authority from that Standing Order?—That is so, of course.

1278. What is your interpretation of the words, that they shall give their opinions and the facts upon which they are founded; what ought they to do under that instruction?—They find the facts, I suppose, and give their opinion; but then, if that opinion is not binding upon the Committee, it seems unnecessary to have some of the ablest and most competent Chairmen of your Honourable House merely to report the evidence.

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1279. Without raising the question whether the opinion of the Referees is binding or not, supposing that they accompanied the opinion with the facts, the Committee then would be in possession of information to enable them to judge of the amount of the disadvantage which you have said is ambiguous?—No doubt, as I say, if the report practically set out the whole of the evidence on both sides, then the Committee would be in the same position to judge (so far as you can do so from a written report) of the weight of the evidence on either side as the Referees; though I imagine, from my experience, that people can never judge so well from reading the evidence, even if they read the whole of it, as they would from hearing it.

1280. Then are you of opinion that, as the Committee have ultimately to decide the matter whatever the Referees may do, they should have the whole case before them?—That is certainly my strong feeling; all I wish is, that we had a dozen such tribunals as the Courts of Referees are, and that they had to give the final decision; I regret that anything should be withdrawn from them.

1281. Mr. *Woodd.*] Generally speaking, questions of comparative convenience and inconvenience do not come before the Referees?—It is hardly possible; the Severn case was, no doubt, a very strong instance of that; it really was the whole question, and then the final decision upon the matter was remitted to another tribunal.

1282. Mr. *Thompson.*] Is it not your opinion, from considerable experience before the Courts of Referees, that some of the engineering questions have been investigated with much greater care, and that a decision has been arrived at with much greater certainty, than was previously the case in Private Bill Committees?—I have not the least doubt of it, for this reason: that on the Courts of Referees we have had Members of your House who are well known to all of us to be persons most experienced in those matters, and you have persons who are themselves as familiar with details of engineering as engineers themselves; you have the very pick and choice of the Members of the House for conducting those inquiries; and for the matters which have come before them, they have been the most competent tribunal, I think, that it is possible to hope for.

1283. Especially upon questions affecting public safety; in the case of dangerous junctions and points of that kind, which have never been investigated before by those who have experience and knowledge of the subject?—No doubt; but I should ask leave to say that I think that the experience of this year will probably not be a fair test of what will happen hereafter, supposing that the Court of Referees is continued, and for this reason: engineers and everybody else have been a little taken by surprise this Session upon many questions; upon questions of engineering and upon questions of estimate. One effect, I think, of the existence of the Court of Referees will be, to make engineers a great deal more careful upon those points, and I do not expect that in any future Session you will have nearly the amount of labour and investigation which you have had this Session. For instance, the question of estimate, which has been a great dispute this Session, I do not think will often arise again. I think that every engineer will have 100,000 *l.* more than he wants for every railway. It has been the habit of engineers previously to cut down the amount of the estimate, because it tends to diminish the amount of deposit, and the question of estimate has been very seldom raised before Committees until there was a special tribunal appointed to investigate the matter, and everybody thought it worth while to try their fortune at the estimate, and a great many Bills which never would have failed have failed this year simply because, as I say, the engineers have been caught napping; but that will not happen in another year, and in the next year if the same thing were to go on I do not think that you would find a single case of a Bill rejected on estimates.

1284. Even this year with the want of experience which the Referees themselves have had, do you think that a considerable improvement has been effected compared with the way in which the private business was conducted before Private Bill Committees in previous Sessions?—Yes. I think that the fact of a particular body of men having been appointed to investigate particular questions has induced a much more accurate investigation of those questions than had previously taken place in those matters. I think that sometimes

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sometimes meritorious works have suffered from the consequence of it, but I think that the result for the future will be, that much more care will be taken upon these points than hitherto has been taken. The system, in some respects, has worked harshly and unjustly to measures which ought not to have suffered by it, but I have no doubt that the result will be to produce a much more attentive consideration than heretofore. I think that if estimates are to be investigated there ought to be some more accurate definition than has yet been given of what an estimate ought to include, and what the nature of it is; and that there also ought to be deposited, either with the plans, or, at all events, some time before the investigation commences, the details of the estimate. At present, if we are going to dispute an estimate, we do not know what the elements of the estimate are until the engineer of the promoters' line is put into the box; then you have to get out of him, by a very circuitous process, his prices and quantities, and all the details of his estimate; and you have, upon the instant, to do the best you can with those details which are so elicited. If it were a rule that the engineer should give the well-known elements, and generally the details of his estimate, you would save a great deal of expense, because in many cases an opponent would see at once that he could not attack the estimate, whereas you now go in the dark to attack an estimate, without knowing what the result will be until you have asked the question; and in that way I think that there would be a great deal of saving of expense and trouble. If the estimate is to be investigated, it ought to be investigated upon as complete materials as the curves or gradients, or any other part of the line.

1285. *Chairman.*] Do you attach much importance yourself to estimates?—It seems to me to be a question for the public. No doubt, in some sense, estimate must be an important question, and for this reason, that if a Committee of the House of Commons are to investigate the nature of a line, it is of importance that they should not be deluded on the subject of the cost of it. Now, a delusive estimate is positively a misrepresentation, with reference to the character of the line, just as much as any other misrepresentation.

1286. Mr. *Milner Gibson.*] Is it with a view to see whether the line will be remunerative?—No, I should say not; that is to say, not to the people who make it. I should have said myself that that was a question with which Parliament had very little to do. I do not imagine that Parliament takes upon itself to see that people do not make fools of themselves, with reference to the expenditure of their money. But there is a question in which the estimate is important, and it is this: if it is brought under the consideration of Parliament that a particular work is to cost a particular sum of money, then, though Parliament does not generally interfere with the appropriation of the capital of the country, yet if that question is submitted to it, it seems to me that Parliament, having cognisance of it, and being called upon to be a party more or less by its sanction of the grant of special and compulsory powers to the expenditure of that capital, does take upon itself some responsibility to see that the capital of the country is not invested in an unreproductive manner; only in that sense it appears to me that an estimate is important. For instance, if Parliament is called upon to give its sanction to the expenditure of a million of money upon a work which Parliament has reason to believe will be utterly or comparatively useless, then it is authorising the withdrawal of capital from the country which would have flowed in other channels more advantageous to the public, and which withdrawal, from the peculiar circumstances of the case, Parliament has power to prevent. No doubt Parliament does not generally interfere with the appropriation of the capital of the country; but in this particular case it is asked to be a party to its waste, and in that sense I do think that the Committee is called upon to inquire what is the nature of the advantage to be derived from the expenditure and appropriation of this capital; not with reference to its remuneration to the shareholders, because I can quite conceive of a work which would be utterly unremunerative to the shareholders, but extremely advantageous to the country. I would always authorise a line which stood in such a situation so long as it would pay its working expenses, and could be kept open; no doubt it would be an improvement to the nation in facilitating locomotion and the transport of merchandise, and improving the land through which it passed.

1287. If Parliament were not asked to be a party to the outlay of this capital at all in the public interest you would not think it necessary to make any

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investigation, but would leave parties to spend their money as they thought fit?—No doubt *proprio motu* they would have no more to do with it than with a foreign loan, which might be completely wasted, and would be a drain to the capital of the country; but here they seem to be invited to be parties to, and judges of, the propriety of the expenditure, and are asked to endorse this expenditure of capital.

1288. Mr. *Thompson.*] Has it been the practice hitherto to restrict the borrowing powers of a company to one-third of the authorised capital?—Yes.

1289. If no estimate were put in, of course Parliament would not limit the amount of capital which could be raised?—Just so.

1290. Consequently, there would be no Parliamentary guarantee, which there now is, to that extent, as respects the bonds or debentures of the company, which now rank in the first class?—I do not exactly know the principle upon which that restriction was made, because it amounts to Parliament interfering to give security to the lender, with which Parliament seems to have very little to do. The lender ought to look after his own security, and to consider whether he has or not sufficient security, and not to look, as I should suppose, to any sanction or security from Parliament for the money which he chooses to lend. But as long as Parliament does require an estimate to be given at all, no doubt an insufficient estimate is a fraud upon Parliament.

1291. The abandonment of the system of putting in estimates would be abandoning the restriction which now exists upon the raising of capital, and the restriction of the borrowing powers to one-third of that capital?—You mean to say, supposing that a line were estimated to cost a million, when, in point of fact, it could not be made for less than a million and a half.

1292. In all Acts the capital is restricted to a certain amount founded upon the estimate, and the promoters are allowed to raise such a proportion by shares, and such an amount by loan?—Yes.

1293. The amount to be raised by loan is restricted to one-third of the whole amount?—Yes, but I do not know why it should be so.

1294. Therefore, if the estimate is to be abandoned, the restriction of the capital to be raised must be abandoned, and the restriction of the borrowing powers of the Company must be abandoned?—No doubt.

1295. The whole must be given up together if a part be given up?—That is so.

1296. *Chairman.*] But, as I understand it, you do not wish so much to express an opinion upon that point, but you think that if Parliament does inquire into the estimate, it should be properly inquired into?—Yes. If Parliament undertakes the inquiry, "How much is this line to cost?" it certainly seems fit that it should get a truthful answer to that inquiry, and not that a Bill should be obtained upon a representation that the work is to cost a less sum than it actually will cost.

1297. Sir *John Shelley.*] Did I correctly understand you as saying that the result of this inquiry by the Referees, more strict this year than previously, has been to throw out several lines where, to use your own phrase, the engineers have been rather caught napping?—Yes.

1298. And that in your opinion, in a future Session, the probability is that that would not occur, because every engineer would take care to have margin enough in his estimate to cover, I think you said, 100,000 *l.* above his estimate?—I used that as a round figure, but I am quite sure that there will be a large margin in future.

1299. Supposing that to be so, does it give it any security beyond the fact that the engineers have taken care to put enough in?—No. With regard to the Referees there is one point upon which my opinion may be of some value, which is the question as it affects the Bar.

1300. *Chairman.*] You mean with regard to having a single counsel?—Yes, I perhaps am the member of the Bar who has suffered most from that rule; in the Severn case, which was one of very great importance, and which I was asked to undertake, and which I did undertake with great reluctance, I felt from the first that it was one which never ought to have been conducted by a single counsel, that if the persons interested in the matter had been able to command the services of the most eminent member of the Bar, he would have been incapable single-handed of really doing justice to it; they were not able to command the services of the most eminent members of the Bar, and I was induced

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induced to undertake the conduct of the case. I felt from the beginning that it really was a task beyond the powers of any single counsel, and I felt it more and more as I continued through the case. I believe that I am speaking in the presence of the Honourable Member who was the author of the rule. What happened the first day was this: it was a case of great complexity and detail, and I think that my opening speech must have taken nearly three hours. I had then to examine Mr. Fowler, the principal engineer, whose examination took above three hours more; therefore, positively speaking, I was in the position, having some eight or ten counsel opposed to me, of having to endure the physical and mental strain, first of all of standing upon my legs for six hours and a half, without the possibility of ever sitting down for an instant, and during the whole of that time having to speak either in examining a witness or in making the opening speech; and I have no hesitation in saying that there is no possible consideration which would ever induce me, under any circumstances, to attempt to do such a thing again. First of all, one has the feeling, which I know is the most disagreeable in the world, that one has undertaken a task beyond one's powers; and next to that, the physical and intellectual strain is one which no man who respects his own life ought to attempt, and I never would do so again. I, of course, did not feel justified in leaving the case after I had taken it, but I made a resolution, to which I always will adhere, that so long as that rule exists I never will undertake any case of that kind before the Referees upon those terms. There is no possible inducement which can be offered to any member of the Bar which ought to lead him to attempt to do it, and he really cannot properly do it. The result was, that after the investigation had been continued for a great number of days, I received the kind and courteous indulgence which we all do receive from the Referees and from the Committees; my strength was so entirely broken down by the case, that when the time came to reply I was incompetent to do it. Practically, I was obliged to leave some of the most important witnesses without being cross-examined. I was so unwell that I could not cross-examine them, and when the evidence was over, I had an adjournment of several days, and was ultimately able to make the reply upon the case. The result of the rule is, first of all, that in a case of that consequence, apart from the mere physical labour imposed upon a particular man, you want the judgment of the best ability which you can command at the Bar, not to conduct the mere physical part of the case by examining witnesses, but to give to your clients the advantage of their experience and their judgment in the conduct of the case; and it is difficult to understand why Parliament should say, that in the conduct of business before them, where there are millions of money at stake, they will impose a rule which is not imposed upon clients in any other branch of the profession anywhere else. I will venture to say that that case, where more than two millions of money were at stake, was tried under conditions under which no case in Westminster Hall where there were 50 *l.* in issue would have been tried. It seems to be a rule which has no reason to justify it at all. It seems to me that it may fairly be left to the judgment and discretion of clients to obtain such assistance as they require, and to obtain it where and how they can get it. The only result of the rule is, that in inquiries of great importance you say to the suitors before your tribunal, "You shall not have that assistance which you require," and which everybody must know to be essential to the proper investigation of the case.

1301. Supposing that the tribunal were continued as it now is, would it be satisfactory to you if a regulation were made, that on application to the Court of Referees an additional counsel might be allowed, or would you suggest that the rule should be abandoned altogether?—I should certainly say in the strongest manner that the rule ought to be abandoned altogether. Why should there be a different rule in Parliament where the stake is a thousand times greater than it is in the Courts of Common Law from the one which prevails there? Why should you trust it to the discretion of clients to do what they please in the one case, and not trust it to their discretion to do what they think fit in the other? They are quite as capable of judging of their own interests before Parliament, as they are in a Court of Common Law. What was the practical result in the case of which I am speaking? Clients of course are always willing and able to pay munificently for such assistance as they desire, but what you impose upon them is this, that they pay such fees as would enable them to obtain the assistance of five or six counsel, and after all they do not receive the complete assistance of

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one, because if you choose to drive a heavy omnibus with one horse, you kill the horse, and the passengers do not get on; it delays the carriage of the passengers, and is destructive of the cattle, and is of no advantage as far as I can see to anybody; I do not see why you are not to allow the coachman to determine exactly what the team is which he thinks requisite to work the vehicle; he is the proper judge of it, and he is the person who is to suffer if any injury is to accrue from it, and I do not see why you should interfere with his discretion in the matter. I am quite sure that the only result of this rule will be and must be, that if the Court of Referees is to exist, you will drive from it all the members of the Bar who have the most experience, and in consequence of having the most experience, the most business. And for this reason, in the case of which I am speaking, quite apart from the strain which was imposed upon myself, I felt that it was an injustice to my other clients. I could not say to them, "Gentlemen, I am not available for any other business for 10 days." How can you say to companies, for whom you hold general retainers, "I have gone to one particular case, and I must entirely withdraw myself from you for all that period." No counsel, who has any extent of business before this tribunal will of course do that which must be entirely destructive of his business. In that way it operates, as well as in the other ways to which I have alluded.

1302. Have you any other suggestions to make?—There is one other suggestion which I have to make, which is this: I do not know that it lies specially in my province to allude to it, but it did certainly occur to me that it would be an advantage, supposing the Court of Referees to be continued, if an arrangement were made by which the investigation could be taken before the work of the Committees commenced, so that, in point of fact, they should not be going on contemporaneously, and interfering one with the other. You would thereby remove many of the difficulties which result from the two inquiries going on at the same time. If, for instance, in January or February, anything which you should determine ought to be taken separately from the work of the Committees were disposed of, there would be much less difficulty than there is now in effecting that which is obviously desirable, namely, that the persons who have been engaged as counsel in one investigation should be able to apply themselves to the other. I think that if that could be managed in any method it would be an advantage. Then, with reference to *locus standi*, there is one suggestion which I have to make; and I take the liberty of saying that I believe, that as regards *locus standi*, there is no difference of opinion that it is an immense advantage to have a fixed tribunal. We have all felt that the uncertainty of *locus standi* was one of the greatest objections to the former tribunal; for you find that no two Committees really decide the question of *locus standi* upon precisely the same ground. But there is one suggestion which I am going to make, and I am afraid that it will appear a very formidable one. Even before the Referees, the great difficulty which we feel is to know precisely upon what principle *locus standi* is determined. Now, when you have one fixed Court for the determination of the question of *locus standi*, which to a certain amount is capable of being treated as a scientific question, I do not see why the Court of Referees should not give the reasons for their decision, as is done in a Court of Law. If you once had the reasons given for *locus standi*, then the clients would be able to appeal to some fixed body of decision, and we should be able to advise our clients with much more certainty than we can at present upon the subject of *locus standi*, because it seems to me that now, in cases of *locus standi*, there is nothing which is safe, and nothing which is desperate; you may always take your chance at it.

1303. Lord *Stanley*.] Do you apply that observation to the Referee tribunal as well as to the Committee?—Less to the Referee tribunal; but still I have heard five or six cases of *locus standi* disposed of the same day without being able to come to a definite conclusion as to the grounds upon which they proceed.

1304. *Chairman*.] Is it possible, in the commencement of the proceedings of a tribunal, to lay down any such rule as you suggest; looking to the variety of cases which must come before them, is it not better to trust to the constant repetition of the same case bringing about a uniformity of decision than to lay down rules in the first instance which may be found to be inapplicable to the next case which comes?—I should have thought that the rule, if it was a sound

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one, ought to be applicable to all the cases coming within it. You may distinguish the cases just as you do in a court of law; you may say, "There are circumstances in this case which differ it from the rule." There are well-known rules of law which persons very often mistake, and think that their case comes within them. The discrimination of a lawyer consists in discovering what does and what does not bring the particular state of circumstances within the rule; but I cannot conceive any question, especially such a question as *locus standi*, which is not capable of being governed by certain definite and sound rules.

1305. You were at the bar, I think, in the former time, before the House reduced the investigation to a certain number of Chairmen; when a fresh Chairman was appointed for every Committee?—I think not.

1306. Inasmuch as the decisions upon *locus standi* then were very various indeed, and were brought to much greater uniformity when we reduced the number of Chairmen, is it not natural to suppose that when the same subject comes before a court you will by degrees get a much greater uniformity than has ever hitherto been the case?—You may have uniformity, but unless the persons practising before the tribunal know the principle upon which you proceed, you will always, as it seems to me, have a great deal of litigation, which you might otherwise have saved; for instance, we know that in the courts of law a barrister gets up and says, "I cannot distinguish this case from such another case," then there is an end of the discussion; whereas, if there had not been such another decision to refer to, there would have been the whole argument upon the matter over and over again, just as if no other case had ever been decided before.

1307. Mr. *Milner Gibson.*] Ought not everything which can be reduced to fixed rules of law to be laid down in the Standing Orders, and then the Referees would only have to see whether the facts which were before them brought the case within the Standing Order?—Yes, but that would not entirely meet my point; and for this reason, that everything depends upon the view taken by the court of what facts do or do not come within that rule. In cases decided in a court of law, taking such an instance as a case of fraudulent preference in bankruptcy, there are occurring every day certain acts which may or may not be acts of fraudulent preference; they may be a voluntary preference, and not a fraudulent preference. How does a lawyer deal with those cases? He looks at the decided cases, and says, "The courts have decided that such and such an act is not a fraudulent preference." So, on the other hand, there are a class of cases in which a preference given amounts to a fraudulent preference. Then a lawyer forms his opinion upon the case submitted to him, whether it belongs to one class of cases or another class of cases. The simple principle that a fraudulent preference avoids a transfer is clear; but then when you have to deal with the facts, you look at the various classifications of decisions, and you say, "The courts have regarded this as coming within the rule of fraudulent preference, and they have regarded such and such classes of cases as falling without it;" and you have always to consider whether the case before you falls within the limits or without it. That is the value of decisions of courts, because you can compare your case with cases which they have decided before. For instance, in the cases of *locus standi* you might say, "There was such and such a line upon the map, and there was a petitioner against it, and such and such competition was set up, and it was decided that that competition was too remote to give a *locus standi*. My line is just in the same position, and the competition is just as remote, so that I scarcely think that I have any *locus standi*." But as long as we are not told what competition has been decided to be sufficiently close, or what competition has been decided to be too remote, between all the degrees of competition, the matter is left doubtful.

1308. *Chairman.*] Taking the very case which you have put of competition, as regulated by distance, have you not found in your practice that the competition of railways does not depend upon the distance, but upon the circumstances of the country; for instance, that there may be two lines which go down two different valleys, which are within five miles, and they are not be competing at all; but that there may be a line, which is 15 miles off, and which, from the nature of the country, may be a competing line?—Yes; but if I knew that the decision had been made upon the nature of the country then, whether I was arguing for or against the *locus standi*, I should put it that in my case the nature of the country either corresponded with or differed from that in the previous case.

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1309. But could any definite rule be laid down as to what was and what was not competition?—Not an absolute rule, but then you would be able to form some opinion from a comparison of a number of decisions where the competition had been held to be sufficiently close or sufficiently remote. I must say that, at present, I have argued many dozens of cases of *locus standi* upon competition, and I am just as far as I was at the commencement from knowing what will be or what will not be held to be a case in which there is a *locus standi*.

1310. Are you just as far; do you not think that you have got a little nearer to the point within this last Session?—I cannot say that I have.

1311. Mr. *Milner Gibson.*] It has been proposed by some persons to lay down a rule, that where the proposed scheme does not interfere with the works of any existing scheme, it shall not be a ground of opposition that it may withdraw traffic from an existing scheme; what is your opinion upon that point?—That is a very large question of policy no doubt.

1312. If that were laid down, it would get rid of all the difficulty to which you have been referring?—Yes; but I think that it would almost get rid of the tribunal altogether.

1313. I do not know whether, in the course of your practice, you remember the time when the Committees generally held that view more so than they do now, namely, that competition was not a good ground of *locus standi*?—My experience this Session certainly has been that Committees pay very little regard to the opposition of railway companies on the ground of competition; I should say extremely little; I think less than they did in my recollection.

1314. *Chairman.*] I understand you to recommend, in the first place, that practice, as to *locus standi*, should be kept as it is, with the exception that you would wish the Referees to give the reasons for their decisions?—Yes. There is one other point on *locus standi* which I wish to mention. I think that the tribunal which determines *locus standi* ought to have a greater power of limiting the points upon which parties should be heard than it has at present. It has frequently happened to me, in arguing *locus standi*, to say, "At all events, if you think that the petitioners are to be heard upon this point, they should be limited to that." Now, the Standing Order prevents, in many cases, any discretion on the part of the Referees upon that subject. Wherever land is touched, the party, according to the Standing Orders, is to be heard against the whole preamble of the Bill. The Referees have held, and no doubt properly held, that under that Standing Order they have no discretion. I can give an instance in the case of the Greenock line, to which I have already alluded. There the railway, for the promoters of which I was counsel, crossed by an arch, and it merely touched at the bottom of one of the piers upon the bank of the railway over which it passed. We had a considerable dispute upon the fact whether it did touch the land of that railway; but the moment it was discovered that the mere crossing of the arch over the railway touched the land, the Referees held, and no doubt properly held, that under the Standing Orders they could not refuse an absolute and unlimited *locus standi* to the parties.

1315. They give the same power to a railway company as to a landowner similarly affected?—Yes; I do not see why the same rule should not apply to a landed proprietor; at all events, I think that it should be in the discretion of the Referees to say, "The nature of your interest is such that you shall only be heard to a certain extent;" but we find that, at present, that discretion is removed by the Standing Order.

1316. Mr. *Ingham.*] They hear the opposition to the entire preamble?—Yes, that is the rule of the Standing Order. Then there is another point, and which seems to me of extreme importance, which has been raised now that *locus standi* cases are decided by a separate tribunal, and upon which some rule certainly ought to be laid down. There are occasionally questions of fact alleged in a petition which are disputed, and the question is, how those disputed issues of fact are to be determined by the Referees who have to decide upon the *locus standi*. I had a case to argue before the Referees this year, in which I think I may be allowed, with the great respect which I feel for them, to say that I am surprised at the decision at which they arrived. The question in dispute was this: one party (the Lancashire and Yorkshire Railway) asserted that a particular piece of land and the rails upon it belonged to them, and that, consequently, they were entitled to a *locus standi*, because running powers were taken by the Manchester, Sheffield, and Lincolnshire Railway Company over those

those rails. We were petitioners maintaining our *locus standi*, and we said, "This land is ours, and, therefore, as you run over it, we must be heard." But thereupon the promoters of the Bill, who were opposing our *locus standi*, the Manchester, Sheffield, and Lincolnshire Company said, "It is not your property, but it is the property of the London and North Western Railway Company." That was a thing which, no doubt, was necessary to be determined, because, if the property did not belong to us, we had no *locus standi*, and if it did, we clearly had a *locus standi*, and there was an end of it. It was wished to investigate it, but the decision which was arrived at was, that the onus of proof lay upon the petitioner to prove his right of property. That, certainly, reversed a fundamental rule of law, that in ejectment a man must succeed by the goodness of his own title and not by the badness of the title of the other party. I urged before the Referees that, after all, the promoter of a Bill who comes to affect property is certainly in no better position than a man who is bringing an action of ejectment; he is without title at all, is coming to obtain title, and to put people to the proof of their title upon their petition, or upon the issue of *locus standi*, seemed entirely to reverse all the principles of law, and, in point of fact, a man might put every landowner in this country to the proof of his title deeds, by simply proposing to make a railway through his property.

1317. *Chairman.*] That is an objection, is it not, which applies equally to Committees as to the Referees?—No doubt.

1318. What suggestion have you to make, under which that question could be decided?—My suggestion is that some definite rule should be drawn up as to what course should be taken upon *locus standi*, where there is a disputed fact between the parties.

1319. What course do you suggest?—I should certainly not suggest that the onus of proof should be cast upon a man whose property is proposed to be affected. I know that the ground upon which the Court of Referees decided was, that the petitioner was in point of fact affirming the proposition that it was his land and was bound to support it; but it seems to me that the nature of the proceeding negatives that, because the party who is the actor in the transaction is the promoter who seeks to affect the petitioner's property; and to say that the petitioner is the party upon whom the onus of proof lies, would certainly be followed by some consequences excessively serious to the possessors of property.

1320. Mr. *Ingham.*] In this case had the petitioner possession of the land?—He had possession in this sense, that he was using it. They were the joint lines of the London and North Western and the Lancashire and Yorkshire Railway Companies leading into the station.

1321. He was in occupation of it?—Yes.

1322. Mr. *Milner Gibson.*] You would propose to refer the whole matter to the Referees and not have anything done by Committees at all?—I did not say that.

1323. You said that you were sorry that the Referees had not to deal with the whole question, and finally decide it as the Committee does now?—That is not exactly what I intended to say; what I meant to say was, that I was sorry that there were not a number of Committees of as great experience as the Referees to deal with the whole question.

1324. You do not mean that you would refer the whole question to the present Referees as now constituted?—I do not see how they could transact the business; as far as they could transact the business and decide it, I do not see how you can have a better tribunal. The Referees, if I may venture to say so, are the best Committees which you have, and you withdraw from them the final decision of the question.

1325. Supposing that the Referees were the only court, and that there was no Committee, and you had to appear before them on behalf of the promoters of a Bill which had been already thrown out in a previous Session by the same gentlemen, should you not feel that your chance of success was rather small?—If you ask me whether I should prefer a permanent tribunal to decide these questions, I have no hesitation in saying that I should not; for this reason, that I believe that the existing tribunal has all the merits and all the defects of a jury. I should be just as sorry as I should be to see all questions in courts of law tried before the judges, because though the judges no doubt are men in all cases of greater experience, and in most cases men of more cultivated intellects,

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tellects, I do not think that the decision of the judges upon certain questions would give the same satisfaction and the same confidence to the public as the decision of a jury, who give an average opinion to the public upon those questions. Therefore, I regard the present form of the tribunal, as I say, to have exactly the same merits as a jury has. You take gentlemen promiscuously out of the House of Commons to determine these questions. Sometimes, no doubt, it leads more or less to inconsistency of decision, but on the whole it leads to a decision which gives general satisfaction, and a decision which I feel confident would give much more general satisfaction than the decision of a permanent tribunal, however much greater its experience.

1326. Then the best plan upon that view of the question would be, to retain your Parliamentary Committee as the court of ultimate decision, but to assist them in any way you could by enabling competent and experienced persons to find facts and details for them, so as to save them trouble?—I always find that the greatest difficulty in life is to know what is a fact. The real truth is, that what people call facts are their own opinions. If there were such things as facts the matter would be easy enough.

1327. Sir *John Shelley.*] That being the case, and there being, as everybody must see, great difficulty in finding gentlemen who will undertake the labour, such as you say the Court of Referees have had to go through, does not it resolve itself into this, that provided the Chairman is an experienced person, and there are with him two other Members, it would, in your opinion, after all, work well, to enable the whole case, from beginning to end, to be before a tribunal of three Members of the House, one of them being an experienced Chairman, such as those gentlemen who have acted as Referees?—No doubt if you could have such a Chairman there, and two gentlemen of equal experience. The great merit after all, one cannot help feeling, of the Court of Referees is, that they are all persons who are specially conversant with the subject with which they are called upon to deal. That is what one has felt, and it seems to me to be desirable that you should have a great number of them, and then it would be unnecessary to call them Referees, but they might be called Committees.

1328. Lord *Stanley.*] The advantage which the Referees possess, as I understand it, is that they are the fit men for that particular class of subjects?—Yes; but then we lose the advantage of them in the Committee which is to pronounce the final decision, which one very much regrets.

1329. Sir *John Shelley.*] Looking at the difficulties of the case, as respects finding a sufficient number of gentlemen to sit as Referees, to do nothing else, and having no other Parliamentary business to carry out, would it not, in your opinion, after all, be a good system, that there should be an experienced Chairman, a person with the experience of the Referees, coupled with two other Members, so as to form a Committee of three?—You mean, that by diminishing the number of the Committee, you would be likely to get a greater proportion of experienced persons.

1330. Yes; they having the whole case from beginnning to end, and doing away with the double tribunal which exists, by having the Referees first and the Committee afterwards?—I have already said, that there appears to me to be an insuperable objection to the double tribunal dividing the inquiry. I merely wish to allude to one other point, namely, the practice before the Referees. A rule has been made that the opponents shall commence. I made an experiment which I thought was more or less successful, but I do not see why it should not be converted into a rule, of calling the hostile engineer, first, to know what it was that he really meant to do, because opponents are very much in the dark. You have deposited plans of the scheme before you, and the opponents waste their time, and the time of the Referees, by going into objections. The engineer of the scheme sits by, and listens to them, and when they have expended their energy upon objections, which can easily be remedied, he comes in and says, "That is immaterial, and I can alter it." A great deal of time is wasted in that way, whereas if there were a rule, that the engineer of the promoters should always be called first, you then would put your objections to him.

1331. *Chairman.*] Would that always be the case. The suggestion which you made originally, and which struck me very forcibly was this, that if the engineers were obliged to put in their plans and estimates more specifically than they now do, the objection should be taken first, and you would discuss the objection more

more satisfactorily. Supposing, for instance, that you obliged the promoters to put in their estimates in great detail, and the engineers to specify their works in great detail, would not much time be saved by taking the objection first, under those circumstances?—I would take the engineer, and would make him my own witness. By making him your own witness, you can cross-examine him, not so much with reference to estimates as with reference to works. For instance, if you object that there is a particularly bad gradient at a station, or a particularly bad junction, it may be that the engineer has some method in his power or within the limits of deviation of remedying that; and then all the time that has been taken up by the discussion and by evidence given to prove that it is a bad thing, is merely so much time wasted; whereas, if you call the engineer in the first place, you say to him, "Have you not such a gradient at the station, and is not that a bad gradient?" and if the engineer says, "Yes; but I can alter it," there is an end of the matter.

1332. I will take the converse of that. If the engineer of the promoters is called in the first instance, are not the promoters obliged to state their whole case throughout; dare they omit any proof of any part of their case?—I would not compel them to go on with their case. I would only propose to do that which I have done myself more than once. In the case of the Leeds and North Durham Railway we called the engineer of the promoters first, and the question which I put to him was, "Have you such a junction?" He said, "Yes." I then said, "Do you mean to adhere to that, or have you any method by which you propose to alter it?" He said, "No." In that case you can with success and certainty take your objection; whereas, if I have wasted a day in proving my objections, it may turn out that they can easily be obviated. If he proposes any scheme to obviate those objections, the matter is at an end. That does not prevent the promoters from subsequently going into the whole of their case, and answering yours. I should not prevent the engineer of the promoters from being called on their behalf, but it would certainly save time if it were found that a number of objections made were such as might be obviated; that you find out at the first blush of the inquiry.

1333. You do not suggest in the first instance that the engineer should be called to state the case of the promoters as is the case in Committees?—I would propose that he should be called in order to his being cross-examined by the opponents, not that he should be called as a witness for the promoters; I have done this more than once, and engineers for the promoters have become rather shy of being in the room. In one case I had to move for a Speaker's Order to call the engineer as my own witness, and I obtained that Order from the Chairman.

1334. Do you not think that is the best way?—If it is to be done, surely it is better to make it a rule that the engineer for the promoters should, if wished, present himself before the Referees. However, that is a mere question of detail.

1335. You would suggest that the engineer should be called merely to facts which are alluded to in the opposing petition?—To give his account with regard to those facts.

1336. Not with regard to the general scheme?—No, not with regard to the general scheme.

1337. Mr. *Thompson.*] By having Courts of Referees composed of some of the most experienced Members who have served on Private Bill Committees, is there not the advantages of having the experience of those gentlemen applied to facts connected with a great number of Bills than would come before them as Members of a Committee?—No doubt you would have the benefit of their experience in matters of engineering, but you lose the benefit of it in the case of larger questions.

1338. But they apply their knowledge of engineering to a much greater number of Bills than would be the case if they only sat on a few Private Bill Committees?—Yes, but one cannot help feeling more and more that engineering has been now reduced to almost a matter of certainty, and engineering questions are probably becoming less and less material points of inquiry except under peculiar circumstances.

1339. Take, for instance, the question as to the danger of junctions with particular lines which are in competition with one another; those facts have been very much left unnoticed hitherto by Private Bill Committees, but in this Session they have been inquired into very strictly; I suppose that that

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approaches as nearly to a fact as anything that could be selected; take the case of a junction with a particular gradient or a particular sharpness of curve, or a junction in a deep cutting, where an approaching train cannot be seen; those are what would be generally called facts, are they not?—I should imagine that it is a question of opinion how far it is dangerous or not.

1340. But if it is expressed in feet and inches it approaches very nearly to a fact, does it not?—You would have no two engineers agreeing as to whether the particular junction was or was not a source of evil.

1341. If a particular gradient or a particular curve is adopted, and if beyond those limits there is danger to the public, it would be an established fact, would it not, as far as the Referees are concerned?—Yes; but surely a simpler mode of dealing with it, supposing there to be such a curve or such a gradient as would be clearly dangerous, would be to make a Standing Order declaring that none such should be allowed on the deposited plan.

1342. With regard to the sufficiency of the estimates, although it is as you say difficult to call it a fact, it being a matter of opinion, you probably would think it desirable to have the opinion of gentlemen who are selected on account of their efficiency for the position they occupy, and who have acquired great experience in dealing with such questions?—As I have said before, I think that the question of estimates is a question which, in future, will not be considered a very material one; I think that, in future, the estimates will be such as will hardly induce the opponents of a Bill to question them.

1343. If the Courts of Referees did not exist, would they not immediately fall back upon the old plan?—That would depend, of course, on Chairmen of Committees; they could be just as particular, and could go into just as much inquiry as the Referees can.

1344. Do you think that a Chairman, selected for the first time, would be able to deal with a question of that sort?—Probably not; and that is the reason why I say I wish that all Committees were like the Referees.

1345. As we cannot have that, do you not think that the Court of Referees is a great improvement upon the previous system?—No doubt; as regards the subjects that they do discuss, I do not doubt that for a moment; all I regret is, that their province is so limited.

Basil Thomas Woodd, Esq., a Member of the Committee; Examined.

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1346. *Chairman.*] YOU have acted for several Sessions as Chairman of Committees?—Since 1861; I think that was the first Session.

1347. And I believe that you have been almost a permanent Chairman during the whole of that time?—I generally have had two or three groups in each Session.

1348. Will you have the goodness to state your opinion to the Committee as to the effect that the establishment of the Courts of Referees has had upon the subsequent investigations before the Committees, over which you have presided, during the present Session?—I think that, on the whole, the decided tendency of it has been to shorten the length of time during which Committees have had to sit; in some particular cases that have been before me, the proceedings have been shortened very materially.

1349. Did you hear the evidence that was given by the last witness?—Yes.

1350. You were Chairman, I believe, of a Committee to which he in his evidence referred?—I was Chairman of the Committee which sat upon the Severn Railway Bills, there were two of them; I allude particularly to that case, because, as Mr. Harcourt stated, a very long inquiry had been gone into by the Referees, with regard to the effect that was likely to be produced upon the navigation of the River Severn, that being really the only serious objection to the Bill.

1351. Will you have the goodness to state your opinion to the Committee with regard to the nature of the difficulty that there was in that case?—The difficulty in that case (which we had to go into to a certain extent afterwards) was that the merchants of Gloucester conceived that by the building of the proposed bridge large vessels, such as they were anxious to get up to Gloucester, and were occasionally in the habit of employing, would not be able to make a voyage up the Severn; the Referees went most carefully into that matter; some alteration,

alteration, I think, was suggested by the engineer during the course of their inquiry, and that alteration was sanctioned by the Referees and removed a portion of the difficulties; and, therefore, the case came before us in a more modified form than it did when it came originally before the Referees; the spans of the openings were made very considerably wider and the headway was raised, not so much, I think, as 10 feet, but something like that.

1352. Was any difficulty caused in your investigation by the report of the referees?—I had no difficulty myself.

1353. The decision of the referees, I think, was that there was some little impediment to the navigation?—That there was some little impediment to the navigation, and, therefore, we were obliged to hear a certain amount of evidence upon that subject.

1354. Do you think you were called upon to hear anything like the same amount of evidence that you would have had to hear if the whole case had been before you?—No; I am quite sure that we were not. I think the Referees heard some 40 or 50 witnesses on the subject, while we only heard four or five, and those were merely merchants from Gloucester, who gave their evidence rather upon general grounds than from their particular knowledge of the navigation itself; we heard no captains of merchantmen, or men who were actually traders upon the river.

1355. In point of fact, you think that the Committee did not experience any difficulty in coming to a decision in consequence of the report of the Referees?—No, I think not. There was one point that we were obliged to go into, and which the Referees were prevented from going into, and that was the sufficiency of the present line to do the work, which it was contended could be much better done than by the line over this bridge; that was the Stroud Valley. One great argument in favour of the bridge was, that the gradients were very much better for bringing coals from the South Wales district to London; some of the witnesses went very largely into the question, whether the Stroud Valley Line could not have been improved at very much less expense than that which it was intended to lay out on this bridge, and that it would be an absolute waste of money to make the bridge merely for the purpose of improving the gradients.

1356. You passed the Bill, did you not?—We passed the Bill.

1357. Had you any division upon it?—No.

1358. The Committee were unanimous?—Yes, they were unanimous.

1359. Had you any difficulty in coming to a decision?—No, I think not, after we had disposed in our own mind of the question as to the injury to the navigation, to which, of course, the attention of the Referees had been principally directed.

1360. You had your attention called to a good deal of the case as it had been brought before the Referees?—No doubt.

1361. Supposing the whole of it had been submitted to your decision without the Referees, have you any reason to believe that you should have come to any other decision than that to which you did come?—No, I believe that we should have come to the same decision.

1362. Have you had any other cases before you in the course of the present Session in which you have had any difficulty in coming to a decision in consequence of the nature of the report of the Referees?—Not in any case that actually was investigated before me. There was one report of the Referees which was ambiguous, and if the parties had gone on with their opposition, I should have merely taken the report back to the Chairman of the Court of Referees who had signed it, and asked his view as to some expressions he had used in it, but the opposition was withdrawn. The Bill went down stairs, and we heard no more of it. That was a continuation of a Metropolitan line towards Hampstead, I think. Two or three Bills that were assigned to come before me were withdrawn upon the report of the Referees. I think not more than that.

1363. Two or three were withdrawn in consequence of the report of the Referees?—Yes. One was argued, and I decided that they should not go on with the Bill.

1364. Do you recollect what Bill that was?—I forget the name of it; it was a short line somewhere near London, which seemed to have neither beginning nor end, and which was entirely in a tunnel. In that case, in my mind, the report of the Referees was so decidedly against it, although they said it was practicable, and there were so many objections to it, that I did not allow them

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to go on with it. I think it was a junction between the Brighton and the Crystal Palace Line.

1365. Sir *John Shelley.*] The parties had gone on to some extent before you, had they not?—No evidence was gone into. The question was merely argued by counsel as to whether the report of the Referees had been sufficienty definite. That was the only question that was argued before us.

1366. Mr. *Thompson.*] In all the cases that have come before you this year, do you consider that time has been saved by the Committee having the report of the Referees before them?—Yes.

1367. Does that apply to all cases, and even to the Severn Bridge case?—In that case the report of the Referees was an immense saving to us. I think we sat on that Bill, and another Severn Bill, about five or six days, and I think we could not have done it under three weeks if we had heard all the evidence that was heard before the Referees.

1368. *Chairman.*] Are you aware how long that case lasted before the Referees?—Several days.

1369. Was it a week?—It was taken up from time to time. Mr. Adair had it. (Mr. *Adair.*) It was seven days and a half.

1370. Sir *John Shelley.*] (To Mr. *Woodd.*) Do I rightly understand you to say that, in the case of that Bill which you stopped altogether, you did so without taking any evidence, simply upon the report of the Referees?—The only question, as I recollect, that was argued before us was, whether the report of the Referees was sufficiently definite or not.

1371. And upon that, without going any further, you stopped the case altogether?—We stopped the case altogether; the Committee were unanimous. We were all of opinion that the report of the Referees was so decisive that it was quite useless for the promoters to go on with the Bill.

1372. Mr. *Bonham-Carter.*] You have stated that some of the evidence that was given before the Referees was brought again before you. Was that evidence brought before you in print, or were the witnesses examined before the Committee?—Some of the same witnesses were examined before us, but we refused to hear them on any strictly engineering points.

1373. Has the evidence that has been given in the Court of Referees ever been produced to the Committee in writing or in print?—Yes, it was in the Severn case; it was printed; it was very voluminous; all the counsel were provided with it, and they constantly referred to it.

1374. And did the production of that printed evidence, in your opinion, save time?—I can hardly venture to say that.

1375. In the case of an ambiguous decision by the Referees, do you think that time would be saved, and that advantage would be gained, by a distinct reference to the evidence in print that was given before the Referees?—I think that, occasionally, that might be the case. Probably the evidence on the questions that came before the Referees is not taken quite so diffusely as it sometimes is before Committees. It is taken more concisely by the Referees.

1376. You have been Chairman of Committees for many years?—Since 1860, I think.

1377. You have now had great experience in engineering questions?—Yes, to a certain extent.

1378. Do you feel that if you were in the position now that you were in four or five years ago as to your knowledge of engineering, that the saving to you by the question being settled by the Referees would have been even greater than it is now?—I have not the least doubt of it.

1379. To any future Chairman who may have to settle questions of this kind, the Referees would be an advantage even greater than you have found it to be as regards yourself?—Yes; of course I cannot but feel that I know more about engineering and railway matters than I did four years ago.

1380. *Chairman.*] Do you recollect how many counsel were engaged before you in the Severn case?—I think there were three or four for the promoters; three, certainly.

1381. And how many parties appeared before you in opposition?—I think there might have been seven or eight.

1382. Seven or eight parties, or seven or eight counsel?—Counsel; two in each case, I think. The oppositions were from the Chamber of Commerce at Gloucester; from the merchants of Gloucester; from the Midland Railway, very

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very slightly; and from a line which has been referred to, the Bristol and South Wales Junction Railway, who had the tunnel scheme, or the alternative scheme, which has been mentioned once or twice.

1383. Were each of those parties supported by two counsel?—Yes, I think that the Bristol and South Wales Junction had but one counsel, and the others I think had two each.

1384. How many parties do you say there were appearing before the Committee?—There were more than those I have mentioned; Gloucester was represented in two or three different forms, but in point of fact it was the same question, and I thought it very tiresome, because they repeated the same thing over and over again. The opposition was all founded on the injury to the navigation.

1385. How many counsel had the other parties?—The Bristol and South Wales Junction had one counsel; the Midland had two counsel, I think they always have two; the Chamber of Commerce I think had only one; there were about seven or eight counsel in opposition altogether.

1386. And three counsel for the promoters?—Yes.

1387. And I understand you to say that your opinion is, that if you had had to investigate the whole case, it would have taken three weeks to go into that portion of the Bill that was before the Referees?—To have gone into the whole question, I think of course a good deal would depend upon the number of witnesses I might have thought it requisite to hear.

1388. Mr. *Thompson.*] Do you think that practically there has been any collision between the Committees and Referees, or that their respective functions have at all clashed?—Not as far as my experience has gone.

1389. You have not found that you have had to examine over again questions that have been already minutely gone into before the Referees?—I always set my face decidedly against that.

1390. On the other hand, you have never felt yourself too much tied up by the conclusions to which they have come?—No, I think not.

1391. Do you think that the limits of the duty of the Referees are sufficiently defined?—I think that is a very difficult question, which requires more absolute definition than there is at present. I think, with regard to that very question which saved us so much time, the question of the navigation, I was not perfectly clear at first whether it was strictly speaking an engineering question, which ought to have gone before the Referees or not. I was extremely glad, personally, that it had been before them, but at the same time I was not quite clear.

1392. With regard to the number of counsel, I think you said that in the case to which you refer eight or 10 counsel appeared before the Committee?—Either 10 or 11.

1393. Has it not been in your experience that although there might be 10 or 11 counsel, or a considerable number present at the opening and close of the case, yet, when some counsel was called on to reply, or to sum up, no counsel could be had, and the Committee has been delayed by having to wait for counsel?—That has occasionally happened, no doubt.

1394. Have there not been numerous cases in which, in consequence of the absence of the leading counsel, the Committee has been delayed?—Yes; in the case to which I have referred, I think it was Mr. Denison who opened the case; but he did not come into the room during the whole conduct of it very often, and there was only one counsel for the promoters in the room.

1395. Has it not sometimes happened that a solicitor has been obliged to state the case instead of counsel?—Yes, I have known such cases to occur; indeed, we were obliged to lay down a rule, that if an agent once interfered in the conduct of the case, we should decline to hear counsel again in the same case. We laid down that rule in order to compel the attendance of counsel.

Thomas Elliot Harrison, Esq., called in; and further Examined.

T. E. Harrison, Esq.

1396. *Chairman.*] WHEN you were here on the previous day, you suggested that the Standing Orders of the House should be altered so as to compel the plan and the sections of every junction of railways to be deposited, with the plans of the railway, by the parties asking for the Bill?—Yes; and I have put down

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shortly what occurred to me as an addenda to the Standing Orders, under the head of "plans" and under the head of sections.

[*The Witness handed in the following Paper:*]

PLANS.

When the Railway is intended to form a junction with an existing or authorised line of Railway the course of such existing or authorised line of Railway shall be shown on the deposited Plan for a distance of 400 yards on either side of the proposed point of junction.

SECTIONS.

When the Railway is intended to form a junction with an existing or authorised line of Railway, the gradient of such existing or authorised line of Railway shall be shown on the deposited section and in connection therewith, and on the same scale as the general section for a distance of 400 yards on either side of the point of junction.

1397. You would suggest that the Referees should see that that has been complied with?—It would become a question of Standing Orders. The object is to assist the Court of Referees when these questions of junctions come before them. I have also prepared, as I understood the Committee wished, that which is merely a copy from what is almost universally adopted—an abstract of the form of estimate ultimately laid before the Referees.

[*The Witness handed in the following Paper:*]

ESTIMATE of the Proposed Railway.

Line, No.

Length of Line - - - - *Miles. f. ch.* | Whether Single or Double.

	Cubic yds.	*Price per Yd.*	£. s. d.	£. s. d.
Earthworks:				
Cuttings—Rock - - -				
Soft soil - - -				
Roads - - -				
TOTAL - - -				
Embankments, including Roads - -	*Cubic yds.*		- -	
Bridges—Public roads - - - - -	*Number.*		- -	
Accommodation Bridges and Works - - - - - - - -				
Viaducts - - - - - - - - - - - - - -				
Culverts and drains - - - - - - - - - - - -				
Metallings of roads and level crossings - - - - - - - -				
Gatekeepers' houses at level crossings - - - - - - - -				
Permanent way, including fencing:				
Miles. fgs. chs. at	Cost per Mile. £. s. d.			
Permanent way for sidings, and cost of junctions - - - - - -				
Stations - - - - - - - - - - - - - -				
Contingencies - - - - - - - -			per cent.	
Land and Buildings:				
A. R. P.				
TOTAL - - - £.				

The same details for each Branch, and General Summary of Total Cost.

1398. You put that in as what you think ought to be the form of an estimate?—Yes, I do. I have explained that one object would be to save expense to parties opposing Bills; because, if they had those details, there are numbers of cases in which they would not have appeared before the Referees at all.

1399. Mr. *Thompson.*] The reason for your suggesting that change in the Standing Orders is, I believe, that it is your opinion that the mode in which junctions between railways are effected is a question of great importance to the public safety?—Yes; I look upon it, from my own experience, as being a much more important question than it has generally been considered; and I feel quite satisfied that, if that alteration in the plans were adopted, it would induce engineers to consider more, at the time when they are preparing their plans, the mode of junction than they do now.

1400. Do you not consider that the importance of that question increases every year as the number of railways intersecting or forming junction with one another increases?—It is beyond any question that it does.

1401. And you form that opinion in consequence of your having been general manager of a railway in a district where, from the numerous intersections between the coal lines and other railways, you have found inconvenience and danger from junctions not having been properly made?—Yes; so much so, that I may state that, even in one case, in a distance of 65 miles, between Berwick and Newcastle, although we have a great number of junctions, you may run the whole of that distance without having a single pair of facing points.

1402. In addition to the question of gradients, which is the one specially dealt with in the suggestion you have made, there are various other questions, are there not, such as that the junctions should not take place in a deep cutting or close to a tunnel, or under any circumstances in such positions that the engine drivers upon different approaching trains should not be able to see a train on one line from the other?—Those are most important points, and they are points which according to my experience are very often neglected, and I hold it as a sound and safe rule that where the question of a junction coming before the Referees is whether it is a bad or a good one, although you cannot always make it a good one, yet it ought to be incumbent on the engineer that he should make it the best practicable. I think that is the extent to which I should go.

1403. *Chairman.*] You maintain that it is of such importance that it is advisable that it should be submitted to the investigation of a tribunal which has experience in those matters?—Certainly I do.

1404. You think it of such importance that you would prefer its going to a Court of Referees to going before a Committee, the Members of which have not had the same experience?—Certainly; and from the constant recurrence of such cases, before the Court of Referees, they would be infinitely better judges (and they would be better every year) than any Committee could be.

1405. Mr. *Thompson.*] From your experience before Private Bill Committees, have you not found that such questions were very hastily gone into, or not at all by them?—Formerly it was much more difficult to go into them than it is now before the Referees; in fact, very often they were not gone into at all; and my experience as regards the question of estimates is that the greatest difficulty has been ever to get a counsel who would take the question up, and that usually upon the ground that they could not get a Committee to go into it.

REFORM CLUB PALL MALL

Lunæ, 19° *die Junii*, 1865.

MEMBERS PRESENT:

Mr. Bonham-Carter.	Mr. Lowe.
Mr. Dodson.	Colonel Wilson Patten.
Mr. Milner Gibson.	Sir John Shelley.
Mr. Gathorne Hardy.	Mr. Thompson.
Mr. Ingham.	Mr. Woodd.

COLONEL WILSON PATTEN, IN THE CHAIR.

John George Dodson, Esq., a Member of the Committee; Examined.

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1406. *Chairman.*] YOU have been acting as Chairman of Ways and Means for the whole of this Session?—Yes.

1407. You have had the additional duty devolved upon you, during this Session, of acting as Chairman of the Court of Referees, which was established in the last Session?—Yes.

1408. Will you favour the Committee with your opinion as to the working of that Court, with reference, first of all, to the saving of time of Members, secondly, to the dispatch of business, and thirdly, to the saving or increase of expense to parties?—I must premise that those are three questions which I think had better be answered by Chairmen of Committees, Parliamentary Agents, and Parliamentary Counsel, than by a Referee. I know that the business which we have had before the Referee Courts has given the Referees an enormous amount of work; and I can say, that in the work which has been done by the Referees they have spared no labour to endeavour to make the system work well; that they have investigated the cases very carefully, and devoted very great pains to the framing of their Reports. How far it has been the means of saving trouble to Committees or expense to parties, I can hardly say. It ought to have saved the Committees a great deal of trouble, and I should suppose that in most cases it has done so, because questions of engineering and of estimate have been investigated and decided for them, and they have not had to go into them at all; but there must have been cases, and I know that, in fact, there have been cases which I have heard of in which, under one pretence or form or another, the questions which have been gone into before the Referees have been gone into again before the Committee under some different name. For instance, where the engineering has been investigated by the Referees and reported upon, it has been gone into again before the Committee under the name of traffic, or under the form of how it would affect some other railway, and there have been cases in which there has been probably, I will not say double the amount of trouble and labour, but a considerable increase; but I believe that those have been exceptional cases. On the whole, I believe that the labour of Committees has been a good deal abbreviated. Then, secondly, as to the dispatch of business; to a certain extent I have no doubt the Referees have created business, because the questions of engineering and of estimate have been gone into more fully, and have been more thoroughly sifted than they ever have been before, and in so far it may be said that they have created an increase of business; at the same time, it is desirable that those things should be sifted, and I believe that they can be sifted more carefully before the Referees; and notwithstanding that additional business so created,

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I have very little doubt that the dispatch of business has been more rapid in this Session. I think that there were 595 Private Bills before the House, and I do not think that they would have been got through so rapidly if they had been left solely to the Committees.

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1409. Complaints have been made by witnesses before this Committee that, in some cases, delay and expense have been caused by the postponement of the consideration of Bills from time to time, in consequence of other business being interposed during the course of their investigation?—I have no doubt that that may have been the case, especially at the beginning of the Session, when the Referees had only at first one court, and they had for a long time only two courts. The Referees at the beginning of the Session were obliged to sit together as one court. In the first instance, I think that we were only four in number when we began work, and we had, as it were, to frame and work out our own practice; we had certain Standing Orders to go upon, but we had to work out and constitute a practice for the court, and, therefore, it was necessary that at first we should all sit together. Then, for a long time we had only a sufficient number of Referees to work two Courts. Then, the delay and expense to which you have referred arose in this way: we were very anxious not to stop the work of Committees, but to get on with the Bills so as to feed the Committees with Bills upon which we had reported, and for which the parties were waiting. It happened to us, once or twice, that we had put down a list of Bills to be taken on a certain day, and that those Bills went off very rapidly; and we found, at two o'clock in the day, that we had disposed of our list, and that we should have been very glad, if we had had more Bills on the list, to have sat on upon some others, and to have got through some more Bills; and that having happened once or twice, I directed the clerk to the Referees always to take care to have a good list of Bills, so that we should never waste any part of the day. Of course, it was not always possible to foresee whether Bills would take a long time or a short time; and it often happened that when we got one of these long lists, a Bill came on early which perhaps took several days, and then the others had to be continually postponed. Then, again, we thought it right to take the *locus standi* cases whenever they came, in order to save parties trouble and expense, and to settle the question at once for them who were, or who were not, to be parties to the suit, so that they might know how to deal with the case as to counsel and witnesses. Therefore, we inserted the *locus standi* cases before other cases; that, again, caused a delay. Then, later on in the Session, I applied to the Speaker to appoint some more Referees. I was not able to continue sitting when morning sittings began in the House. besides which I had to sit upon unopposed Bills. I could not sit upon the regular Referee Court, and I therefore got the Speaker to appoint some more Referees, and then I only took charge of the *locus standi* court, which was constituted a third court for the purpose of *locus standi*, leaving the others to Messrs. Hassard and Adair to preside in; and after that I did not hear any complaints that the Bills were more delayed than happens before Committees.

1410. Do you think that if the Court of Referees were maintained as it now is in another Session regulations could be made by which the difficulties to which you have now alluded could be obviated?—If there were three Courts of Referees, one taking the *locus standi* cases, and the other two devoting themselves to questions of engineering and estimate, and if they began work early in the Session, I do not apprehend that there would be any greater difficulty as regards delays to Bills than must necessarily happen before Committees in all cases, because you can never tell exactly how long a Bill will take. A Bill which you expect will take a short time takes a long time, and then you must postpone the Bill next on the list.

1411. With regard to the cases of *locus standi*, you, I believe, have carried out, as far as possible, what you apprehend to be the views of Parliament and to be the principle upon which the question of *locus standi* cases should be decided?—Yes.

1412. Will you state in what way you have heard the cases upon *locus standi*; how has the business been conducted before you?—We have called upon the parties to give us a short statement of what the case was without going into the merits of the case, and we have decided it upon *primâ facie* statements; of course we have not pretended to go into the whole case.

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1413. Has the party applying for permission to appear opened his case first, or the party objecting?—We had before us the petition of the party applying to be heard; the party objecting to his being heard had to give him notice of the reasons upon which he objected to his being heard, and then we called upon the party applying to be heard to tell us why he wished to be heard, and we then heard the objection.

1414. You heard the case stated, and you exercised your judgment accordingly?—Yes.

1415. You did not apply any specific rules or practice with regard to competition, or anything of that kind?—As regards competition, it is entirely a question of discretion; we acted as Committees do. It is a question of degree; you cannot lay down any certain rules as to competition; it must be a question of discretion; and it very often reduces itself to a very fine question, whether the competition is sufficiently direct, or whether it is rather too remote. You cannot lay down any universal rule with regard to it.

1416. The decision as to the *locus standi* was simply a case which was referred to you as Referees instead of to the Committee, without any alteration of the principles upon which your decision was to be regulated?—Quite so. The only difference has been that the principles have been more uniformly applied, being applied by one Court who heard all the *locus standi* cases of the Session. I believe that I myself heard every case of objection to *locus standi* throughout the Session, except, perhaps, some half-dozen; and I believe that the Speaker's counsel, who sat with me, heard every one of them, without a single exception.

1417. Some of the witnesses (two I think) have suggested that the Referees for the future should be called upon to give their reasons for their decisions. Do you think that it would be possible in all cases to do that?—I do not think that it would. I confess that I think it is better that they should give their decision without any reason; I think that it might lead to misconstruction and dispute, because, for instance, the questions of competition, which are questions of discretion, very often reduce themselves to a very fine point; there is a slight difference between two cases, and the competition is a trifle more direct in one than in the other, and you must decide the question one way or the other.

1418. I presume from what I myself know of the investigations before the Referees, that it would be a serious interference with the other duties which you have to perform before the House if you were to be continued for another Session in the office which you have held during this Session?—It is an immense addition to the labour of the Chairman of Ways and Means; in fact it is more than he can do, to sit every day, if there are to be only two or three Courts of Referees. The Chairman of Ways and Means cannot sit every day from 11 till 4 or 5, it is perfectly impossible, it is inconsistent with his other duties; he might contrive to sit two or three days a week, and that is as much as he could do.

1419. Should you object to the duty of a Referee on cases of *locus standi*?—If you continue the Referees on the present system, I think that you should not have Referees on questions of *locus standi*, or any particular questions, but I think that your Referees should sit on all questions which are referred to them, and should divide the labour amongst themselves so as to be able to change about if necessary from one Court to another. If the system were to be carried on next Session as it has been this, I should say that there ought to be three Courts at work.

1420. One for *locus standi*?—One which should devote itself to *locus standi*, and the other two to questions of engineering and estimates; and I think that you had better have more than nine Referees appointed if three are to be a quorum, in order to make provision for relieving a Member. And then the natural thing would be for the Chairman of Ways and Means to preside in the *locus standi* Court, which, at all events, late in the Session perhaps, would only sit two days a week, and that, I think, he might be able to do. But I think that there should not be Referees appointed for *locus standi* and Referees appointed for engineering, but that they should be appointed generally, so that the Chairman of Ways and Means might go into another court if it were convenient, or that another Member might take his place in the *locus standi* court, if he were compelled to be absent. I should observe, that sitting in the *locus standi* court together with the general superintendence which, I presume, the

Chairman

Chairman of Ways and Means would be required to exercise over all the Referee Court would still be a great addition to his normal duties.

1421. Is it your opinion that the two other courts should be composed exclusively of Members of Parliament?—I do not see how you are to get Members of Parliament to do the work.

1422. Unless you pay them?—Unless you pay them I do not think that you could expect them to do it; that is to say, to sit every day, as they must do, for five or six hours, and to draw reports besides at night. If the present system is to continue, you cannot expect Members of Parliament to do that. It is almost impossible for a Member of Parliament to attend to his duties in the House if he has to do that; if he sits for five or six hours a day, and then has to draw a heavy report, or, perhaps, more than one, at night, he cannot attend to his duties as a Member in the House.

1423. Mr. *Thompson.*] Would it not be possible for those whom you may call auxiliary Members of the Court, and who were Members of the House of Commons, though not paid, to attend to a certain number of Bills and then to be changed, so as to be bringing up some of the Members and giving them a knowledge of private business, and qualifying them to be Chairmen of the courts in time?—No doubt a great advantage in the Court of Referees over an ordinary Committee is the permanency of its Members. Everybody who has to do with Parliamentary Committees knows how very great an influence the Chairman has in a Committee, and if there is a permanent Chairman you gain a great deal. You might have Members to assist him who would serve for ten days, or a fortnight, and then be exchanged. It would not be so good as if you had men all serving permanently, but you could not expect Members to serve all through the Session.

1424. *Chairman.*] Would you suggest that for the composition of each court there should be a Chairman paid, who should be a Member of the House, another not a Member of the House paid, and other Members of the House, as has been the case in the present Session, to change from time to time; you are aware that during the present Session a Member has been put on from time to time in addition to the two other Members of the court?—Yes.

1425. Do you think that that would work satisfactorily?—Yes. Looking to the efficiency of the court and to its weight with the public out of doors, and with the House itself, I think that it is very important that the Chairman should be a Member of the House; I think that if you have a permanent Chairman who is a Member of the House, and another permanent Member of the court who is not a Member of the House, you need not have other permanent Members; and I think that to make up the quorum of the court, you may trust to Members appointed for a time.

1426. Would you have one Member of the House, or two Members of the House, attached to each court?—If the Referees are to continue to decide questions of engineering and estimates only, and if their functions are not to be extended, I do not think that it is necessary to have more than one Member of the House as a permanent Member of the court; I think that if the Chairman is a Member of the House, and if there is another Referee not a Member, and a third Referee who is a Member of the House but changeable, it will do perfectly well.

1427. Supposing that you were to devolve on these Referees a more extensive duty, namely, that of considering the merits of the Bills to a certain extent, would you then think it advisable to have the Court of Referees of the same number as Committees of the House, namely, four?—Yes; I think that if you are to devolve upon the Referees any questions of policy, you then must alter the constitution of the court considerably. I should say that the Referee system is open, in my mind, to the fundamental objection that it divides that which it is almost impossible to divide by a distinct line, namely, questions which are to be properly decided by a Committee and those which are to be decided by the Referees. It is very difficult; it is like trying to take a pound of flesh without shedding a drop of blood.

1428. On the whole, do you think that it would be better to give a greater scope of duty to the Referees?—If you retain as Members of the court, gentlemen who are not Members of Parliament, I, do not think that you can entrust

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to them, speaking from a constitutional point of view, anything approaching to a decision on questions of policy; anything which verges on a legislative function.

1429. You are opposed altogether to any persons except Members of Parliament going into the case?—Into any questions of policy.

1430. Here is a question of policy, namely, whether large tracts of uncultivated land should be inclosed or not. The House have already got rid of that jurisdiction altogether, except inasmuch as it comes before them in a Provisional Order Bill?—Yes; then what I am afraid of is, that if with these contested Bills you said that the report of the Referees should be a Provisional Order, and should stand, unless questioned by the House, and should be embodied in a Bill, you would have them constantly reopened by the opponents, and you would have the matter inquired into twice over. My own idea is, that if you make the Referees a Committee which should decide on the Bill as Committees do now, you must alter their constitution, and then I think you would require more than three to each court. I think that the best way of doing that would be to have a permanent Chairman, a Member of the House, and two Members of the House, who should be got to serve for as long a period as they would, to assist him, who should constitute the Committee; and that there should be a Referee, not a Member of the House, whom you might term an assessor, or what you pleased, who should sit there and assist them by his advice, but not actually be a Member of the Committee. I think that in that way you would get the advantages which the Referees now possess over an ordinary Committee; you would have a permanent Chairman, and you would have a permanent assessor, who, though he was not actually a Member of the Committee, yet really and truly, by his advice, would possess the weight of one, and at the same time you would escape the constitutional difficulty of having questions of policy decided upon by any one who was not a Member of the House.

1431. You do not think that having the great majority of the court Members of Parliament, would do away with the constitutional objection to one of the court who was not a Member of Parliament having a vote?—I think not; I think that the other plan would be better.

1432. Mr. *Thompson.*] If we had Committees formed as you contemplate, you would still propose that the Chairmen of those Committees, which might be called Committees of Reference, should be paid, would you not?—Yes; I am proceeding on the supposition that the House would consent to pay two Chairmen; I do not see how you are to expect to obtain the services of men without it. I stated expressly that I thought, with a view to the efficiency of the tribunal and its weight both in the House and with the public out of doors, its Chairmen should be Members of the House; and you cannot obtain Members of the House, I feel convinced, to do such service unless you are prepared to pay them; whether the House is prepared to do that, or has valid objections to paying Members, is quite another question.

1433. *Chairman.*] On the average, you have sat, I think, for about six hours a-day?—We have met at eleven, and the Referees have sat on, very generally, till five o'clock. It has very often happened, when I have been in the chair, that there has been a Private Bill coming on in the House and the second reading to be opposed, or some question in the House on a Private Bill, at a quarter before four, and I have been obliged to break up the court, and to go in a great hurry to attend to that.

1434. From your experience, should you say that the expedition obtained by a six hours' sitting greatly exceeds that which can be got by a four hours' sitting?—No doubt; you get through a great deal more business.

1435. Evidence has been given that more than double the amount of business, on the average, can be done in a six hours' sitting than in a four hours' sitting; is that your opinion?—I could hardly say that; of course more business is got through in six hours than in four, and the Referees probably get through their business more expeditiously than a Committee, because they have more training in it.

1436. Do you think that the time bears any proportion to the expedition with which business is transacted?—I can hardly say that; it is a very difficult thing to say, but I think that it is probable that the Referees get through as much work in six hours as a less experienced Committee would in eight.

1437. Mr.

1437. Mr. *Woodd.*] Do you not think that that is because they are better men for the work?—They are more trained.

1438. Mr. *Milner Gibson.*] With regard to the question of *locus standi*, do you think, supposing the practice to be continued, as it has been carried on this Session, of referring that matter to the Referees, that it would in a short time come to be clearly understood what really gave a *locus standi* and what did not; do you think that the principles upon which the decision was given would be understood, so that people could be advised beforehand by their counsel whether they had a *locus standi* or not, they knowing upon what principles decisions on that subject were given?—I think that from the greater uniformity of decisions that would be the case, that people who were coming to oppose a Bill would be told by their counsel, "Yours is not a case in which you can appear; it is of no use attempting it, and you had better not try it," and that time and expense would be saved in that way.

1439. Ought not they to know the principle upon which the decisions are given as regards *locus standi*; it cannot be an arbitrary discretion exercised by the Referees?—As regards competition it really reduces itself in very many cases to a question of discretion, and a very fine question it is.

1440. But it is a discretion exercised according to some rule or principle, is it not; it is surely guided by some principle?—No; because it constantly reduces itself to this: here is a competition, no doubt it is a competition, but it is so remote and so indirect, that we do not think that we ought to admit it, and we decide against the *locus standi*. Then there is another case, in which the competition is just a shade less remote; in such cases you cannot lay down any principle.

1441. If it was shown by evidence, for instance, that the proposed scheme would, in all probability, withdraw traffic from an existing line, that existing line would always be admitted to have a *locus standi*, would it not?—No; I do not think that we could lay that down broadly. Almost any line in existence will endeavour to show you that the construction of some other line would withdraw traffic from it, and injure it.

1442. Mr. *Woodd.*] You take no evidence on *locus standi* cases, do you?—We have very seldom done so; occasionally, when there has been a disputed question of fact, we have done so. I think that if you undertook to say that the reasons for the decision upon *locus standi* should be given, it would be open to a great deal of dispute and a great deal of misconstruction.

1443. Mr. *Milner Gibson.*] Do you think that we could lay down anything in a Standing Order to make the matter of *locus standi* more clear as regarded the question of competition?—I do not think so; I do not think that you could undertake to define it.

1444. Sir *John Shelley.*] Can you suggest anything as regards Standing Order No. 91, which says that the Referees are to state the facts upon which their opinions are founded?—Those are the reports of the Referees upon engineering and estimates only. I think that it would be better to leave it to the discretion of the Referees, and that, as a general rule, they should only report "estimate sufficient," or "estimate insufficient," "engineering efficient for the purpose purposed," or "engineering open to certain objections," which they might state; but the calling upon them to state those facts, gives them a great deal of labour, and after all, the Committee probably take the conclusion of the Referees only. Of course the Referees (and that would be one of the advantages of having the Chairman a Member of the House) should always be ready, if called upon, to account for their decisions.

1445. Do not they make a report upon questions of competition?—Not upon questions of *locus standi*. We only give our decision then and there.

1446. And you do not report your decision?—No, we simply endorse on the petition "*locus standi* allowed," or "disallowed."

1447. *Chairman.*] The Committees did the same previously, I believe?— I do not know.

1448. Mr. *Milner Gibson.*] Is it open to the Committee still to entertain the question of *locus standi*, although the Referees have decided upon it?—Yes, I think that in the Standing Orders it is provided that if a case of *locus standi* incidentally arises before the Committee they may decide it.

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1449. Sir *John Shelley.*] Under Standing Order 91, the Committee cannot do anything after the Referees have decided?—I am pretty sure as to the matter of *locus standi*. If the Referees have decided that a person has a *locus standi*, or has not a *locus standi*, that is conclusive, and the Committee cannot re-open it; but I think that it is provided somewhere, that if a *locus standi* which has not come before the Referees incidentally arises before the Committee, they may deal with it. The Standing Order is No. 87: "The Chairman of Ways and Means shall decide upon all petitions as to the rights of the petitioners to be heard upon such petitions, without prejudice, however, to the power of the Select Committee to which the Bill is referred, to decide upon any question as to such rights arising incidentally in the course of their proceedings." That was a Standing Order which was framed last Session: it gave the Chairman of Ways and Means alone the power of deciding upon questions of *locus standi;* it was altered this Session, very properly giving the power to the Referees.

1450. The object being to lay down, if possible, a code of rules which should be like Standing Orders with reference to the question of competition, would it not be well, in order that parties should know upon what grounds the decision of the Referees has been come to, either for or against competition, that the facts upon which their opinion has been founded should be stated?—I do not think so.

1451. Would it not be well to lay down a code of rules by which parties out of doors would be able to know whether they would be likely to be admitted upon their *locus standi* or not?—I think not; I think that, instead of laying down a code of rules, you would be laying down so many elements of dispute.

1452. Then you cannot suggest any means or any alteration of the Standing Orders by which parties wishing to introduce new schemes should know whether the Referees would decide that the question was a question of competition or not?—I think not, beyond this—that from the more uniform practice of the Referees, there being only one court for the decision of that question, there would no doubt be many cases in which the competition was direct and close, where the counsel would advise his clients that they had a *locus standi*; while, where the competition was very far fetched and very remote, he would probably advise them that they had not a *locus standi*; but there still would remain the innumerable cases intermediate between very direct and very remote competition, upon which counsel might give an opinion, but upon which it is impossible to lay down a rule.

1453. Mr. *Thompson.*] I think that you have suggested that the Courts of Referees should, if they were to undertake to go into the merits as well as into the engineering details and estimates, consist entirely of Members of the House of Commons?—If they are to be simply Committees, consisting of more permanent Members, and to take the more difficult Bills, then I think that they ought to consist entirely of Members of the House.

1454. But those Committees would have paid Chairmen?—Yes.

1455. And you would then have Private Bill Committees, some of which would have paid Chairmen, and others would not have paid Chairmen?—Yes.

1456. Of course those Committees which had paid Chairmen, who gave their continuous attention to these matters, would acquire more experience and would form a higher character of tribunal?—Yes.

1457. You would, in fact, select between the Private Bills before the House, and you would send a certain number of Bills to the higher tribunal and a certain number to the inferior tribunal?—Yes.

1458. Do you not conceive that there would be great difficulty in drawing the line, and that you would give great offence and annoyance to the promoters of Private Bills when they were sent to the inferior tribunal instead of to the better one?—I do not know that that need necessarily be the case; you might, probably, in a great measure, be guided by the advice of the Parliamentary agents in some respects.

1459. *Chairman.*] Is there not another reason, namely, that the one tribunal would have to sit six hours and the other only four, and is not that a reason why there might be some differenee in the tribunal; if you pay Members, you do it in consideration of their sitting for six hours every day, from one end of the Session to the other?—Yes.

1460. The other tribunal is simply a Committee of some kind, which is only liable

liable to sit for four hours each day, and for a certain period of the Session?—Yes. *J. G. Dodson*, Esq., M.P.

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1461. Do you think that it necessarily follows that there should be any jealousy of one tribunal over the other, under such circumstances as those?—I think not.

1462. Mr. *Thompson.*] There would be the great objection which I have already mentioned, namely, the great difficulty of classifying these Bills; do you not think that it would be impossible to draw the line between those Bills which ought to go to the Referees' Committees and those which ought to go to Private Bill Committees?—No, I do not see that it need be impossible. The Parliamentary agents know pretty well, and the Reports of the Board of Trade indicate, which are the heaviest and the most complicated Bills. I do not see that there would necessarily be more difficulty in dividing the heavier Bills and the lighter Bills than there is now in forming groups of Bills.

1463. One of the great advantages which has been gained by the establishment of these Courts of Referees has been the more accurate investigation of detail, engineering detail especially?—Yes.

1464. And it is anticipated, I think with great reason, that the estimates and the engineering details will be prepared with much greater care in future?—I think that that is probable if the Referees continue.

1465. By sending only a small proportion of the Bills to the Referees' Committees (if we may give them such a term), a large proportion of the Bills would be sent to Private Bill Committees as before, and should we not, therefore, lose the ground which we have gained, because there would not be a certainty that a stricter supervision would produce greater accuracy in detail?—No, I hardly think that; because if it once became the practice that the estimates were carefully framed, and that the engineering details were carefully prepared for Committees, I think that that practice would become general, and would be extended to all Bills.

1466. Do you not think that those promoters of Private Bills who wished to avoid this strict supervision would arrange not to have their Bills sent to the Referees' Committee, and that, therefore, those cases where this supervision was most required would be precisely the cases which would escape it?—No, I do not anticipate that that would be the case; because it would not be left to the promoters of a Bill to decide whether they would go before this permanent Committee or an ordinary Committee. Great assistance might be derived from Parliamentary agents, who are generally to be depended upon in those matters, in advising which Bills were best suited for one Committee and which for another; but the distribution of the Bills must be left to some higher authority.

1467. If, as probably would be the case, the Referees took all the Bills of the promoters who wished their Bills to go before them, would it not generally be the case, that if promoters said that they did not care about their Bills going before the Referees, they would be sent to Private Bill Committees?—But I do not propose that a Bill should go either to Referees' tribunal or before a Committee because the promoters said that they wished it.

1468. Would not the Parliamentary agents, knowing that there was a difficulty as respected the Bills, where the cases were referred to the Referees, gladly catch at cases where they did not wish them to go to the Referees, and advise that those cases might, without difficulty, be sent to the ordinary Private Bill Committees?—No; I should not entertain any apprehension of that sort.

1469. Mr. *Hardy.*] The opponents of the Bills, if they knew that they were deficient upon engineering details, would take care that they were sent to the strictest investigation which they could have?—Yes.

1470. Mr. *Bonham-Carter.*] I understand that the present practice is for the General Committee of Chairmen to divide the Bills into groups?—I cannot tell that; I am not on the chairmen's panel.

1471. The Bills in a group are connected together, generally speaking, by reason of their being somewhat in the same district; and, in the opinion of the Committee of Chairmen which groups the Bills, there will be the same class of evidence upon them, and very often great competition arises from more than one Bill, sometimes from three or four Bills, in a group; does not it strike you that if Bills, not on account of their connection in groups, but on account of the peculiar character of a particular Bill, namely, being a Bill in which a great engineering question arises, are to be sent down to the Special Committee of

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Referees for their entire decision, it will be interfering with the system which already exists, and very likely prejudicially so?—Yes; there might be cases in which it would be difficult to fit in the grouping of Bills with that division between the permanent Committees and the ordinary Committees.

1472. Is the present system of grouping Bills found to work practically well on the ground that Bills which affect the same county are very often heard three or four together, before a decision is given?—Yes.

1473. If you took away some of these Bills which were likely to be heavy ones, you must either separate the light from the heavy Bills, or refer the whole of them, heavy and light, to these more expert Committees?—Yes, no doubt you must do that, and it would be a matter of discretion in every case what was best to be done.

1474. Would not it be likely that those two Committees would be overwhelmed with work, assuming that you constituted two Committees, each consisting of three Members of the House, and an assessor to deal with a certain class of Bills; do you not think that it is possible, upon the ground which I have stated, that they would be overwhelmed with work?—Those Committees, being permanent Committees, and consisting partly of paid Members, and sitting six hours a day, would take all the work which it was possible for them to take, taking the heavier work. If it was necessary, for the sake of preserving the groups, to send to the Referees some of the lighter Bills which were necessarily connected with heavier ones, they must take them, and whatever work they could not take, must be taken by the ordinary Committees. The Referees would only be Committees working like the other Committees, but taking a heavier share of work.

1475. Would it be the fact that a certain class of work, in some degree heavier than the other work, and carried on for a greater number of hours, would be carried on by paid Chairmen and the other members of the tribunal, and that the rest of the work would be carried on by ordinary Committees?—Yes.

1476. Would not the effect of that be, that the engineering would not be sifted throughout the whole class of Private Bills, as is done now?—I think that that would not be the case, because, in the first place, the promoters of a Bill, if it was at all a serious Bill, would not feel sure that they would not be sent before one of these two permanent Committees; in the next place, the practice would be introduced amongst the promoters of Bills of preparing their estimates more carefully and their engineering details more carefully, and the practice of sifting those cases more carefully would extend from the permanent Committees to the ordinary Committees.

1477. Do you think that as the Referees have established a sort of practice of close examination in this Session, which would still continue with them as expert Committees, that would affect the general practice of the ordinary Committees, with regard to engineering, varying from the present practice, in which it is very much neglected?—I think that it would; I think that the promoters of the Bills would prepare their estimates and their engineering details more carefully, and that the attention of Committees would be more directed to the subject.

1478. Are you aware that it has been stated in evidence that in Parliamentary Committees there is a disinclination on the part, not so much of the Chairmen, but of the ordinary Members of the Committees, to go at any great length into engineering details, they being not exactly so much within their cognizance as they would be within the cognizance of the expert Committees?—Yes, and I think that probably the constitution of the tribunal of the Referees (I do not know that it is so, but I think it not unlikely) to investigate engineering questions particularly may have even made Committees more careless upon the subject than they were before, because they would assume that if there was any serious question of engineering it would have gone to the Referees.

1479. You are aware that the large number of Bills, in the present Session, has rendered it necessary that more groups should be formed, and that more Committees should be sitting at the same time?—Yes.

1480. And that the practice which prevailed in earlier years, of carrying the business with six to eight Chairmen, and thereby obtaining a greater uniformity of practice, has been necessarily departed from?—Yes.

1481. And that if the business continues to increase in the same ratio, or continues in the same degree, you will still find it necessary, notwithstanding your

your Court of Referees, to have a large number of Chairmen of Private Bill Committees?—Yes. *J. G. Dodson*, Esq., M.P.

1482. Under those circumstances, would not, every year, a certain number of Chairmen be appointed with less experience, and should not be deprived of the advantage of the present system of the Referees inquiring into engineering and those questions, if the system of Referees was discontinued?—You mean, that the engineering of all the Bills would not come before the Referees, and not before the same tribunal, and that many of them would go to ordinary Committees, as has been the case before, no doubt that would be the case. 19 June 1865.

1483. Is the fundamental objection, which existed at the time when the Referees were established, strengthened in your mind by the practice of the tribunal?—No, quite the contrary. The objection to a divided jurisdiction was, in my mind, so great at first that I had very great doubt whether the system would work well or satisfactorily; it has worked far better than I expected.

1484. So that the fundamental objection which was felt in theory in the House when the Referees were appointed, has not turned out to be in practice so prejudicial as many persons anticipated?—It has certainly not turned out so inconvenient as I expected, it has worked far better than I anticipated.

1485. Mr. *Ingham.*] Could the objection which has been suggested by Mr. Bonham-Carter be met by any alteration of the 92d Standing Order which now says, "The Select Committee to which any Bill has been referred, may, subject to the approval of the Chairman of Ways and Means, refer any question arising in the course of their inquiry which they may deem suitable to be so referred, to the Referees for their decision, such question to be stated in writing." Supposing that there was a considerable question of engineering as to a bridge upon any work to be executed, and that the Committee on the Bill wished to have it decided by a more expert opinion they might state that fact?—You mean that they might refer a particular engineering fact to the permanent Committee.

1486. Yes?—That might be done if the permanent Committee had leisure to take it.

1487. That would go to the question whether it might be desirable to increase the number of the permanent Committees, so as to have a tribunal to take that matter?—Yes. Probably a case which involved heavy engineering would be, in the first instance, sent to the permanent Committee; but any special question, such as you suggest, which arose before an ordinary Committee, might be sent, if they pleased, to the permanent Committee, always supposing that the permanent Committee were at liberty to take it.

1488. The substitution of a lofty viaduct for a bridge of moderate height might be proposed, which, not having appeared upon the deposit of the Bill, would not have induced the persons connected with the Bill to consider it at first, but it might arise by a suggested substitution in the course of the inquiry?—Yes.

1489. As to the engineering quality of that work, the Committee, if they did not wish to entertain it, might ask the decision of the Referees?—Yes.

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1490. *Chairman.*] YOU have served as Chairman of Railway Committees during the present Session?—I have. *A. Mills*, Esq., M.P.

1491. Can you, from your recollection, state how many cases you have investigated?—I do not know how many Bills I have had before me, but this is the 40th day that I have sat. I should think that I may have had as many as perhaps 15 or 16 Bills. I cannot say with certainty.

1492. Then it has given you some power of judging of the effect of the Court of Referees, which was established at the end of the last Session of Parliament; will you give your opinion to the Committee as to whether its effect has been to meet the object of it; in the first instance, saving the time of Members?—I think that it is difficult for me to draw a comparison between the present system and that which prevailed before, as regards the saving of time, because the Bills which I have had in previous Sessions have been, in most instances, very much heavier and longer Bills than I have had this Session; therefore, I do not think that I can draw quite a fair comparison from my own experience. But in one

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instance, the system appears to me to have failed as regards the saving of time. There has been a great deal of argument or attempted argument on the part of counsel to introduce matters which have been argued and dealt with before the Referees, and questions have constantly arisen as to whether it is competent to counsel to go into points of engineering, for instance; I have uniformly adopted the practice of saying that though under the Standing Orders, as they stand at present, the Committees are prohibited from hearing any evidence to prove or disprove facts found by the Referees, yet I do not consider myself, as Chairman, in a position absolutely to stop all evidence which relates to engineering matters, because I feel that the consequence of that might be, that rotten schemes, both as regards estimate, and as regards engineering, might be passed through Parliament in cases in which the parties had, by mutual arrangement, agreed with one another not to go before the Referees. Consequently, I have found that in some instances it has been absolutely necessary, in my judgment, to go into questions which, perhaps, properly it was intended by Parliament should go before the Referees, and in that way, I think, that as much time has not been saved as we might have hoped would have been saved by the new arrangement.

1493. Then, have you found that the opponents of a Bill have been induced by some reason or other not to take the advantage of their position, and to test the Bill, as they might have done, before the Referees upon engineering and other statistics?—I think so; I also think that instances have happened in which the chief petitioner and, perhaps, the only substantial petitioner against the Bill, has been a country gentleman whose estate was interfered with, and to him it was a matter of absolute indifference whether the scheme was right as regarded its estimate, or was very defective as regarded its engineering. In such a case, the point has not been raised upon the petition, but still I, acting as Chairman of the Committee, have always felt that it was my duty to be satisfied that the scheme was not so defective as it appeared to be.

1494. You have thought it your duty, as Chairman, to make an inquiry into the merits of the Bill, independently of any opposition to it?—I have so.

1495. How did you obtain your evidence to test the merits of the Bill?—There have been cases in which witnesses have been called, engineering witnesses, for instance, to prove certain questions of convenience, or otherwise, but not, perhaps, strictly upon engineering points, as regarded the mode in which the line was laid out, and it has transpired in the course of the examination or cross-examination that there were certain defects which appeared to the Committee to be serious ones, and upon those points, as they have arisen, questions have been put by the Committee which have elicited evidence tending to show that some inquiry ought to be made.

1496. What circumstances have led you to believe that the opponents and the promoters have consented together to abandon the investigation into engineering?—I cannot point to any instance in which I have direct proof that that has been the case; but there was a case in Scotland in which, as far as I recollect, there were two mineral lines, which came before me, and it so happened that it was not necessary for us to go into the question of the engineering merits or defects of one of the schemes, but with regard to the other it was necessary; and quite sufficient evidence transpired to show that the engineering was very defective; and, certainly, the impression was left upon my mind that the parties had thought it best to pair off, as it were, and to say, "We will not discuss this question, in order to save expense and trouble." I have no positive proof that that was the case.

1497. Have you had any difficulty, as the Chairman of a Committee, in discovering the line of demarcation between the duties of the Referees and the duties of the Committee?—I think that the difficulty has arisen mainly from the language of the new Standing Orders. I think that the Standing Orders distinctly lay down, if I remember rightly, that Committees are not to hear any evidence to prove or disprove facts which have been found by the Referees, and I think that there have been constant attempts to introduce matters relating to engineering, and also relating to estimates, with regard to which it was difficult to say whether the attempt was or was not an attempt to prove or disprove facts found by the Referees. In that manner I think that a difficulty has arisen for the Committee quite to know whether they were complying with the Standing Orders or not.

1498. You have laid some emphasis upon the words "the attempts of counsel;"

counsel;" do you mean by that that those attempts of counsel were met by the Committee and rejected?—I think that in all the instances within my recollection the Committee have adhered strictly to the rule of not allowing any evidence to be given to prove or disprove facts found by the Referees. I have strictly adhered to that rule.

1499. If that be the case, have you found any difficulty in forming your judgment upon the merits of a line in consequence of the engineering and statistics having devolved upon the Referees?—No, I do not know that I could say that any difficulty has arisen; the only difficulty, or the chief difficulty, has been in deciding whether it was the duty of the Committee to make an inquiry in the manner which I have spoken of, with regard to facts which could not be said to have been proved or disproved by the Referees.

1500. But when the Referees have come to a decision, you have not found that that decision has interfered in any way with your judgment upon the merits of the Bill before you?—In no instance that I can recollect.

1501. Mr. *Woodd.*] You have not had many Bills in which engineering questions were involved which have not been before the Referees?—Not many. If I had quite known the point upon which I was going to be examined, I could have refreshed my memory upon that point. I should think that there may have been as many instances perhaps as four or five Bills which have not gone before the Referees.

1502. *Chairman.*] Would you say from your experience of former Sessions and of the present one, that the Bills which have come before you, which have been submitted to the Referees, have been in a well-prepared state for your decision upon their merits?—Certainly I can say so.

1503. You think that the ground has been better cleared away for your devoting your attention to the merits of the question, unfettered by any consideration of the engineering details, with the exception which you just now mentioned?—I think that the very fact that we knew at starting, that certain points had been thoroughly ventilated in those cases in which the parties had gone before the Referees, necessarily limited the area of our inquiry, and I think that we have felt that proportionably our time has been shortened in that respect, and our labour diminished.

1504. Have you any suggestion to make, supposing that Parliament decide to continue the Court of Referees, which you think would facilitate the transaction of private business?—If the Court of Referees is to be continued as the tribunal by which questions of *locus standi*, estimate, and engineering are to be dealt with, one suggestion which I would make is, that at all events the Standing Orders should be altered so as to make it perfectly clear what was the course to be adopted by the Committees in those cases, in which the parties did not go before the Referees. At present it appears to be open to the discretion of each Committee as to how they should deal with cases of that kind. I do not know what has been the practice of other Committees, but my own has been to consider it open to me to allow arguments to be raised upon those questions of engineering and estimate where the parties had not gone before the Referees, and I think that the Standing Orders ought to be precise and clear as to what should be the position of Committees in such cases.

1505. The 90th Standing Order is to this effect: "The Referees shall inquire into all or any of the following matters as to which parties petitioning against any Bill desire to be heard in opposition, namely:—1. In the case of Bills of the second class, for authorising the construction of works, the engineering details of the undertaking, the efficiency of the works for the proposed object, and the sufficiency of the estimate for executing the same." I understand, from the evidence which you have just given, that you think that, for the future, the Committee should be precluded from going into those points, and that they should be left exclusively to the Referees?—What I should venture to say would be this: I think that they should either be excluded from the consideration of the Committee, or that their duties should be distinctly defined in some way. I do not venture to say whether it is expedient that they should be precluded; but I think that, in some way, it should be distinctly laid down what their duty is with regard to cases of that kind, because it appears to me that the result may be that very unsatisfactory and insufficient schemes may be allowed to slip through Parliament, in consequence of there being no tribunal to which parties are compelled to go to deal with them.

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1506. You have construed that Standing Order as admitting of an investigation, even into engineering facts, before Committees, if no investigation has taken place before the Referees?—Quite so. My impression has been that Parliament did not, as some people have supposed, make the Referees the only tribunal in the world before whom these questions of engineering and estimates should be brought, but that it intended to give parties an option of going before this tribunal; and that, if they did not, Parliament omitted to make a provision for such a case.

1507. But inasmuch as the Standing Order says, "The Referees shall inquire into all or any of the following matters, as to which parties petitioning against any Bill desire to be heard," should you not infer from that that they could not be heard before the Committee if they had not asked to be heard before the Referees?—I should not have inferred that; I should have inferred that they had the option of going before the Referees, but that they were not compelled to go before the Referees; and that afterwards if the Committee found that they had not done so, it was the duty of the Committee to inform itself upon the subject.

1508. How do you construe these words: "The Referees shall inquire into all or any of the following matters, as to which parties petitioning against any Bill desire to be heard in opposition;" there is no allusion to petitioning to the Referees, or to Committees; the petition is to Parliament; how do you infer from that that the question might go to the Committee?—My inference is that Parliament being silent with regard to the Committee, and giving the Committee power to deal with the matter generally, has not shut out the Committee from considering circumstances which, in its judgment, it thinks necessary to be entered upon before it decides aye or no upon a Bill, and with reference to which it may be as a matter of fact, that the parties have not gone before the properly constituted tribunal.

1509. Supposing that a party who had not been heard before the Referees applied to you to be heard before the Committee, you would think yourself justified in hearing him?—What I should consider myself justified in doing would be this, to satisfy the Committee as to those points upon which I thought it necessary that we should be satisfied, in order to come to a decision; I should not allow the parties to examine and cross-examine, and re-examine in the ordinary mode, but I should take the witness into my own hands, and should ask him such questions as I thought necessary for my own information, because I should think that I was not justified in passing a Bill upon which I was not satisfied on such an important question as that.

1510. Mr. *Thompson.*] Supposing that the case came before you as the Chairman of the Private Bill Committee, of a dangerous junction which was intended to be made between the proposed line and the existing line, and that you were aware that that engineering point had not been inquired into by the Referees, would you not consider it your duty to satisfy yourself upon the character of that junction before you found the preamble of the Bill proved?—I should, certainly.

1511. Then do you not consider that it is desirable that it should be clearly laid down by Parliament, that in cases where Bills have not been before the Court of Referees, a Private Bill Committee have the power of examining into any such matters as they consider of public importance?—It certainly appears to me that if Parliament should think proper to continue the Court of Referees, it is of great importance that the powers of Committees should be so distinctly defined that there should be no possibility of any such questions as those adverted to slipping between the two tribunals.

1512. Mr. *Hardy.*] I understand you to say, that whether it is raised by the petition or not, you go into an investigation of your own accord into the engineering, where it has not been inquired into before the Referees?—In cases where a grave doubt has been thrown upon my own mind as to the sufficiency of the engineering.

1513. I understand you also to say that you would not hear counsel upon it. If counsel appeared, of course he must appear upon some petition; and if he raised that point, ought he not to have raised it before the Referees under these Standing Orders?—Possibly he ought to have done so; but in the case which I just now put, he may have been counsel for a petitioner who did not care at all about the engineering merits of the undertaking.

1514. Then

1514. Then his petition would not refer to that point?—His petition would not refer to that point.

1515. And therefore he could not raise it?—He could not raise it.

1516. Then it would be the Committee themselves who would enter into that investigation, not litigiously, but because they choose to use the power of investigation which they had?—Quite so.

1517. You have alluded to the 92d Standing Order, which gives a power to the Committee to refer a question to the Referees?—Yes.

1518. Are not the questions of engineering, to which you have alluded, questions which the House seems, at all events, to have intended to refer, in all cases, to the Referees; the 92d Standing Order says, that "the Select Committee to which any Bill has been referred may, subject to the approval of the Chairman of Ways and Means, refer any question, arising in the course of their inquiry, which they may deem suitable to be so referred to the Referees for their decision, such question to be stated in writing and signed by the Chairman of the Committee;" would not any question of engineering be just such a question as that which the House meant to give to the Referees to inquire into?—I suppose that Standing Order to apply to cases in which the parties had been before the Referees already, and in which the report had been presented to the Committee from the Referees, but that some new matter had arisen, or that some circumstances had arisen in the course of the inquiry, which appeared to render necessary a reference back to the Referees; and in every case in which such an application has been made to Committees of which I have been Chairman, to refer a matter back to the Referees, I have uniformly refused to do so, because I thought, that so long as the Court of Referees existed, it was of the utmost importance that parties should be compelled to have their cases ripe for adjudication before that tribunal, when they brought them before the Court of Referees, and that there should be no risk of there being anything like a game of battledore and shuttlecock, to and fro, between the Referees and the Committee. Consequently, in all cases I have refused to allow the matter to go back to the Referees, thinking it the duty of the parties to have their case ripe for the Referees when they were before them.

1519. Has it ever happened that you have had an application to send a case to the Referees when it has not been there at all?—A case arose in which it was alleged that new matter had arisen since the case had been before the Referees; that some new arrangements had been made with the company.

1520. In cases which have not been at all before the Referees, I understand you to say that questions of engineering have arisen which the Committee have themselves inquired into?—Yes.

1521. In those cases, has there ever been an application to you to refer those questions to the Referees?—Never, in any instance.

1522. Mr. *Bonham-Carter*.] Would you not feel it necessary to grant such an application?—Yes.

1523. Take the case to which you referred just now of a dangerous junction; should you not feel that such a case as that might be very well sent to the Referees, who had been dealing with many such cases already?—Certainly; and if I had not, by the questions which I had addressed to the witnesses, satisfied myself upon the point, I should have thought that a very proper course to adopt.

1524. Would that be one of those narrow and definite points which, probably, it would be more satisfactory to yourself to have solved by the Referees who had been dealing with that particular point?—Quite so.

1525. Supposing that the Referees were changed into a Committee, that point would still remain with you, of course?—That point would still remain, I apprehend.

1526. Mr. *Ingham*.] The 149th Standing Order does not appear to have been expressly repealed or modified so as to suit the tribunal of the Referees; it is "The Committees on Railway Bills shall direct their attention especially to the following heads of inquiry:" and the second head is, "The merits, in an engineering point of view, of the proposed railway, and the crossings, if any, of public roads on the level"?—This is an existing Standing Order.

1527. Sir *John Shelley*.] And under it you think that you would be justified in inquiring into those matters?—Certainly.

1528. If you look further on, you will see that that Order provides that "Any other circumstances" shall be reported to the House; that stands as it

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did before; do you consider that you are not only justified but bound to do that?—I certainly think so.

1529. Referring to a heavy case which you had before you last year, namely, the case of the new line to Brighton, the question of competition, of course, was there admitted on both sides; competition is one of the points which are now decided by the Referees. The question of estimates was fought in the usual way. Taking the whole thing together, do you believe that the formation of this Court of Referees would have saved you any time or labour in such an inquiry as that? If so, in what way do you believe that the Referees Court would have saved you labour?—In such a case as that I do not think that it would have saved materially any time or labour; I distinguished just now between what I call heavy Bills and light Bills, and I do not think that in the case of a Bill like that to which you allude much time or labour would have been saved, because the questions were so very much mixed up. In the first place, it was not a question on which engineering details were very prominently raised; the great question was the question of competition, the question of public policy.

1530. *Chairman.*] But if my memory serves me, there were two points which the case raised, one of which was the going through a gentleman's park?—Yes; and the line, if I recollect rightly, between London and Brighton, went through six miles of tunnel, so that there must have been some engineering questions.

1531. If I recollect rightly, that agreement was mixed up by the leading counsel with the question of competition?—Yes, it was no doubt.

1532. Sir *John Shelley.*] The result of your opinion is, that the working of this new system is that in heavy Bills you do not think that it would give any saving of time, or any particular saving of time?—I think not. With reference to a question from the Chairman as to the result of the system in the saving of time, if I recollect rightly, the question which was put to me was whether I did not think that the preparation of the case by eliminating the engineering details and questions of estimate tended to simplify the case as put before the Committee; I answered in the affirmative that I thought that it did tend to simplify the case, and that therefore the consequence would be that in all those cases in which it was so simplified there would be a certain saving of time, and consequently of expense; but I should not apply that observation to all cases, and I am not prepared to say, so far as my experience goes, whether taking all the private business which comes before Parliament, the two tribunals save time or money; I am not prepared to answer that question aye or no; I only say, that as far as my observation goes, there are a great many Bills in which time and money are saved by the preparation of the case so far; but if I may be allowed to express my judgment on the matter, I would far rather see a tribunal established by which all the questions should be dealt with together, than have the questions dealt with by separate tribunals.

I N D E X

TO THE

REPORT

FROM THE

SELECT COMMITTEE

ON

REFEREES ON PRIVATE BILLS.

Ordered, by The House of Commons, *to be Printed,*
21 *June* 1865.

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FIRST REPORT

FROM THE

COMMITTEE OF SELECTION

RELATIVE TO THE

GROUPING OF PRIVATE BILLS.

CLASSIFICATION OF PRIVATE BILLS.

The Committee of Selection have formed the following Private Bills into Groups, and have agreed to Report the same to the House:

GROUP A.

Aberdeenshire Roads.
Chesterfield, Newbold, and Dunstone Road.
Cromford and Belper Road.
Dumfriesshire Roads.
Glasgow New North Road.
Haddon and Bentley Road.
Linlithgowshire Roads.
Wigtownshire Roads.
Mansfield and Worksop Road.
Moses Gate and Ringley Branch Road (Referees).

GROUP B.

Barnstaple Roads.
Beaconsfield and Redhill Roads.
Great Torrington Roads.
Greenwich and Woolwich Lower Road.
Grosmont Turnpike Trust.
Helston Roads.
New Cross Roads.
Winchcomb Roads.
Trowse Road (Referees).
Wragby Roads.

FIRST REPORT FROM THE COMMITTEE OF SELECTION.

Ordered, by The House of Commons, *to be Printed,*
21 *February* 1865.

SECOND REPORT

FROM THE

COMMITTEE OF SELECTION

RELATIVE TO THE

GROUPING OF PRIVATE BILLS.

CLASSIFICATION OF PRIVATE BILLS.

THE COMMITTEE OF SELECTION have formed the following additional Groups of Private Bills, and have agreed to Report the same to the House as follows:—

GROUP C.

Shirley and Freemantle Gas.
Southampton Gas.
Southampton and Shirley and Woolston Gas.
Folkestone Gas.
Fareham Gas.
Gosport Gas.
Rastrick Gas.
South Metropolitan Gas.

GROUP D.

Birmingham Water.
Dewsbury, Batley, and Heckmondwike Water.
Horsforth Water.
Runcorn, Weston, and Halton Water.
Cheltenham Water.
Manchester Corporation Water.

GROUP E.

Bristol Water.
Banbury Water.
Gainsborough Water.
Neath Water.
Redhill Gas and Water.
Kidderminster, Stourport, and Bewdley Water.

GROUP F.

Blaydon Gas.
Chesterfield Water and Gas.
Littleborough Gas.
Imperial Gas.
Exeter Gas (No. 1).
Richmond Gas.
Exeter Gas (No. 2).
Preston Gas.

GROUP G.

Manchester Improvement.
Bolton Improvement.
Halifax Extension and Improvement.
Liverpool Improvement.

GROUP H.

West Worthing Improvement.
Whitechapel and Holborn Improvement.
Sheffield Water.
Merthyr Tydfil Local Board of Health.
Oldham Borough Improvement.
Glasgow Markets and Slaughter-houses.
Newcastle-upon-Tyne Improvement.
Southport Improvement.
West Bromwich Improvement.

GROUP J.

Bristol Docks.
Great Yarmouth Borough, Haven and Port.
Llanelly Local Board of Health.
Tyldesley with Shakerley Local Board.
York Castle, Judges' Lodgings at York.
Lanarkshire County Prison Board.
Tyne Improvement.

GROUP K.

Mersey Docks and Harbour Board.
Glasgow Bridges.
Dundee Roads and Streets.

GROUP L.

Belfast Borough.
Belfast Gas.
Belfast New Streets.
County Antrim and Belfast Borough.
Belfast Water.

SECOND REPORT FROM THE COMMITTEE OF SELECTION.

Ordered, by The House of Commons, *to be Printed,*
23 *February* 1865.

65—I.

Under 1 *oz.*

THIRD REPORT

FROM THE

COMMITTEE OF SELECTION

RELATIVE TO THE

GROUPING OF PRIVATE BILLS.

CLASSIFICATION OF PRIVATE BILLS.

The Committee of Selection have made alterations in the Groups of Private Bills already formed, have formed additional Groups, and have agreed to Report the same to the House as follows:—

GROUP J.

They have withdrawn the—

Great Yarmouth Borough Haven and Port.

GROUP K.

They have added the—

Glasgow Corporation Water.

They have formed the following additional Groups:—

GROUP M.

Bromley Gas.
Carnarvon New Water.
Ebbw Vale, Tredegar, and Sirhowy Water.
Glossop Water.
Kent Gas.
Rhyl and District Water.
Torquay Gas.
Tunbridge Wells Water.

GROUP N.

Southwark and Vauxhall Water.
Southwark Bridge Transfer.
Shrewsbury Bridges.
West London Docks and Warehouses.

COMMITTEE OF SELECTION.

THIRD REPORT FROM THE COMMITTEE OF SELECTION.

Ordered, by The House of Commons, *to be Printed,*
3 *March* 1865.

65—II.

FOURTH REPORT

FROM THE

COMMITTEE OF SELECTION

RELATIVE TO THE

GROUPING OF PRIVATE BILLS.

CLASSIFICATION OF PRIVATE BILLS.

The Committee of Selection have made alterations in the Groups of Private Bills already formed, and have agreed to Report the same to the House:

GROUP C.

They have added the—

Winchester Consumers' Water and Gas.

GROUP D.

They have withdrawn the—

Manchester Corporation Water.

GROUP J.

They have withdrawn the—

Lanarkshire County Prison Board.

FOURTH REPORT FROM THE COMMITTEE OF SELECTION.

Ordered, by The House of Commons, *to be Printed,*
10 *March* 1865.

65—III.

FIFTH REPORT

FROM THE

COMMITTEE OF SELECTION

RELATIVE TO THE

GROUPING OF PRIVATE BILLS.

CLASSIFICATION OF PRIVATE BILLS.

The Committee of Selection have made the following alteration in one of the Groups of Private Bills already formed, and have agreed to Report the same to the House:

GROUP H.

They have withdrawn the—

Southport Improvement.

COMMITTEE OF SELECTION.

FIFTH REPORT

FROM THE

COMMITTEE OF SELECTION.

Ordered, by The House of Commons, *to be Printed,*
14 *March* 1865.

65—IV.

SIXTH REPORT

FROM THE

COMMITTEE OF SELECTION

RELATIVE TO THE

GROUPING OF PRIVATE BILLS.

CLASSIFICATION OF PRIVATE BILLS.

The Committee of Selection have formed the following additional Group of Private Bills, and have agreed to Report the same to the House:

GROUP O.

Manchester Corporation Water.
Southport Improvement.
Port Glasgow Police and Water.

SIXTH REPORT FROM THE COMMITTEE OF SELECTION.

Ordered, by The House of Commons, *to be Printed,*
28 *March* 1865.

SEVENTH REPORT

FROM THE

COMMITTEE OF SELECTION

RELATIVE TO THE

GROUPING OF PRIVATE BILLS.

CLASSIFICATION OF PRIVATE BILLS.

The Committee of Selection have made the following alteration in one of the Groups of Private Bills already formed, and have agreed to Report the same to the House:

GROUP O.

They have added the—

Greenock Police and Improvement.

SEVENTH REPORT

FROM THE

COMMITTEE OF SELECTION.

Ordered, by The House of Commons, *to be Printed,*
5 *April* 1865.

EIGHTH REPORT

FROM THE

COMMITTEE OF SELECTION

RELATIVE TO THE

GROUPING OF PRIVATE BILLS.

CLASSIFICATION OF PRIVATE BILLS.

The Committee of Selection have formed the following additional Groups of Private Bills, and have agreed to Report the same to the House:

GROUP P.

South Kensington Road.
Wimbledon Common.

GROUP Q.

St. Stephen's Green (Dublin).
Liverpool United Gas [*Lords*].
Wexford Harbour Embankment [*Lords*].

EIGHTH REPORT FROM THE COMMITTEE OF SELECTION.

Ordered, by The House of Commons, *to be Printed,*
2 *May* 1865.

NINTH REPORT

FROM THE

COMMITTEE OF SELECTION

RELATIVE TO THE

GROUPING OF PRIVATE BILLS.

CLASSIFICATION OF PRIVATE BILLS.

THE COMMITTEE OF SELECTION have formed the following additional Group of Private Bills, and have agreed to Report the same to the House:

GROUP R.

Blackpool and Layton with Warbrick Improvement.
Liverpool Gunpowder Regulation, &c.
Pier and Harbour Orders Confirmation.
Local Government Supplemental (No. 4).
Pilotage Order Confirmation (No. 2).
Brokers' Bonds and Rents.

NINTH REPORT

FROM THE

COMMITTEE OF SELECTION.

Ordered, by The House of Commons, *to be Printed,*
16 *May* 1865.

FIRST REPORT

FROM THE

GENERAL COMMITTEE

ON

RAILWAY AND CANAL BILLS.

The General Committee on Railway and Canal Bills have formed the following Bills into Groups, and have agreed to report the same to The House:—

Group 1.

Read 2°.	
15 Feb.	Barnet, Hendon, Hampstead, and London Railway.
	East London Railway (Thames Tunnel Line).
	Edgware, Highgate, and London Railway.
15 Feb.	Fulham Railway.
15 Feb.	Great Eastern and London and Blackwall Railways.
20 Feb.	Great Eastern Railway (Additional Powers).
15 Feb.	Great Northern (Hornsey and Hertford Branch).
15 Feb.	Hammersmith and City Railway.
	Hornsey and Kingsland Junction Railway.
15 Feb.	London, Blackwall, and Millwall Extension Railway.
15 Feb.	London, Brighton, and South Coast (Additional Powers).
	London, Chatham, and Dover, and London and South Western Railway Companies.
	London, Chatham, and Dover Railway (No. 1).
15 Feb.	London and South Western Railway (Kensington, &c.)
15 Feb.	Metropolitan District Railway.
15 Feb.	Metropolitan Railway.
15 Feb.	Metropolitan and St. John's Wood Railway (Extension).
	Metropolitan and South London Railway.
15 Feb.	North London, Highgate, and Alexandra Park Railway.
15 Feb.	North London Railway.
15 Feb.	North Surrey Railway.
	Tottenham and Hampstead Junction Railway (Deviations, &c.)
	Tottenham and Hampstead Junction Railway (New Lines).
	Waterloo and Whitehall Railway.
17 Feb.	Wood Green, Winchmore Hill, and Enfield Railway.

Read 2.

Group 2.

15 Feb. Chichester and Midhurst Railway.
Crystal Palace New Railways.
Deal and Dover Railway.
15 Feb. Dover, Deal, and Sandwich Railway.
East Surrey Railway.
15 Feb. Hadlow Railway.
15 Feb. London, Brighton, and South Coast Railway (St. Leonard's Line and Deviations).
15 Feb. London, Chatham, and Dover Railway (No. 2).
Sevenoaks Railway.
South Eastern Railway.
Surrey and Sussex Junction Railway.
Sussex Central Railway.
Weald of Kent Railway.
West Kent Railway.
15 Feb. West Sussex Junction Railway.

Group 3.

Acton and Brentford Railway.
Acton and Twickenham (North and South Junction Railway).
Beaminster Railway.
Fareham and Netley Railway.
Great Western and Surrey Docks Junction Railway.
15 Feb. Havant, Hambledon, and Droxford Railway.
15 Feb. London and South Western Railway (Additional Powers).
15 Feb. London and South Western Railway (New Lines in Surrey) [Kingston, &c. Junction].
15 Feb. London and South Western Railway (Pirbright, Aldershot, and Farnham.
Lyme Regis and Chard Road Railway.
Lyme Regis Junction Railway.
15 Feb. Poole and Bournemouth Railway.
Sunningdale and Cambridge Town Railway.
Tooting, Merton, and Wimbledon Extension Railway.

Group 4.

Bath Gas.
15 Feb. Bristol and Exeter (Additional Powers).
Bristol and North Somerset Railway (Bristol and Bath Lines).
Bristol and North Somerset Railway (Southern Extension).
15 Feb. Bristol Joint Station.
15 Feb. East Somerset and Cheddar Valley Railway.
East Somerset Extension Railway.
15 Feb. Radstock and Bath Railway.
Watchet and Minehead Railway.

Group 5.

15 Feb. Bristol and Exeter and Devon and Somerset Railways.
15 Feb. Buckfastleigh, Totnes, and South Devon Railway.
15 Feb. Devon and Somerset Railway (Extensions).
15 Feb. Devon and Somerset Railway (Ilfracombe Railway).
15 Feb. Exe Valley Railway.
15 Feb. Ilfracombe Railway.

Read 2°.

15 Feb. London and South Western Railway (Torrington Extension).
15 Feb. Okehampton Railway (No. 1).
15 Feb. Okehampton Railway (No. 2).
Plymouth and Dartmoor Railway.
Sidmouth and Budleigh Salterton Railway.
Sidmouth Railway and Harbour.
15 Feb. South Devon Railway.
South Hams (Devon) Railway.
Teign Valley Railway.
15 Feb. Tiverton and North Devon Railway.

Group 6.

20 Feb. Bury St. Edmunds and Thetford Railway.
15 Feb. Colne Valley and Halstead Railway.
Downham, Stoke Ferry, and Brandon Railway.
15 Feb. Ely, Haddenham, and Sutton Railway.
20 Feb. Great Eastern Railway (Bishops Stortford, &c., and Ramsey Railways).
Great Eastern Railway (Capital, &c.)
20 Feb. Great Eastern Railway (Somersham to Ramsey).
Great Yarmouth Borough, Haven and Port.
15 Feb. Ipswich and Felixstow Railway (No. 1.)
20 Feb. King's Lynn Docks and Railway.
16 Feb. London, Tilbury, and Southend Railway.
15 Feb. Lynn and Sutton Bridge Railway.
17 Feb. Mellis and Eye Railway.
20 Feb. Mistley, Thorpe, and Walton Railway.
Peterborough, Wisbeach, and Sutton Railway.
15 Feb. South Essex Railway.

Group 7.

15 Feb. Furness Railway.
15 Feb. Hexham and Allendale Railway.
15 Feb. Maryport and Carlisle Railway.
21 Feb. North Eastern Railway (Pelaw and other Branches).
15 Feb. Solway Junction Railway (Deviation, &c.).
20 Feb. South Northumberland Railway.
Tees Valley Railway.
15 Feb. Whitehaven and Furness Junction Railway.
15 Feb. Whitehaven, Cleator, and Egremont Railway.
15 Feb. Whitehaven Junction Railway, and Cockermouth and Workington Railway.
15 Feb. Whitehaven Junction Railway.

Group 8.

20 Feb. Clitheroe and West Riding Junction Railway.
15 Feb. East and West Yorkshire Union Railway.
Forcett Railway.
15 Feb. Furness and Yorkshire Union Railway.
15 Feb. Leeds, North Yorkshire, and Durham Railway.
21 Feb. North Eastern and Cleveland Railways.
20 Feb. North Eastern Railways (Gilling, Helmsley, and Pickering Branch).
North of England Union Railway.

Read 2°.

15 Feb. Scarborough and Whitby Railway.

15 Feb. Skipton, Wharfdale, and Leybourn Junction Railway.

West Hartlepool Harbour and Railway, and Cleveland and North Eastern Railways.

Group 9.

15 Feb. Barnsley, Ackworth, and Pontefract Railway.

Birkenhead and Liverpool Railway.

Great Northern, and Leeds, Bradford, and Halifax Junction Railways Amalgamation.

Great Northern Railway and West Yorkshire Railway Amalgamation.

Heysham Railway and Pier.

Huddersfield and Halifax Railway.

Lancashire and Yorkshire Railway (Additional Powers).

Lancashire and Yorkshire Railway, and Lancashire Union Railway Companies.

Lancashire and Yorkshire, Midland and Leeds, Bradford and Halifax Junction Railways.

15 Feb. Luddenden Valley Railway.

Manchester, Sheffield, and Lincolnshire Railway (Purchase, &c.).

Manchester, Sheffield, and Lincolnshire Railway (Widening part of Manchester, South Junction and Altrincham Railways, &c.).

Midland Railway (Barnsley to Kirkburton).

21 Feb. Preston and Wyre Railway, Harbour and Dock.

15 Feb. West Riding and Grimsby Railway.

20 Feb. West Yorkshire Railway.

Group 10.

15 Feb. Burton-upon-Trent and Nottingham Railway.

Burton-upon-Trent Connection Railways.

Burton-upon-Trent Railways.

15 Feb. Lancashire Union Railways (New Lines).

Leeds New Railway Station.

15 Feb. London and North Western Railway (New Works and Additional Powers) (England and Scotland).

15 Feb. Manchester, Sheffield, and Lincolnshire Railway (Extension to Liverpool).

15 Feb. Midland Railway (New Lines and Additional Powers).

North Eastern Railway, Leeds Extension.

15 Feb. South Lancashire Railways and Dock.

FIRST REPORT

FROM THE

GENERAL COMMITTEE

ON

RAILWAY AND CANAL BILLS.

Ordered, by The House of Commons, *to be Printed,*
[21 *February* 1865.

66. *Under* 1 *oz.*

SECOND REPORT

FROM THE

GENERAL COMMITTEE

ON

RAILWAY AND CANAL BILLS.

The General Committee on Railway and Canal Bills have made the following alterations in the Groups already formed, and have formed the following Bills into Groups, and have agreed to report the same to The House :—

The Burnham Tidal Harbour Bill
is added to Group 4.

The Manchester, Sheffield, and Lincolnshire Railway (Widening, &c.) Bill.
is taken out of Group 9, and added to Group 10.

The Great Northern Railway (Junction at Newark)
is added to Group 9.

Group 11.

Read 2°	
	Cheshire Lines.
15 Feb.	Chester and West Cheshire Junction Railway.
15 Feb.	Connah's Quay Railways and Docks (Wrexham, Mold, and Connah's Quay Railway).
15 Feb.	Dee and Mersey Junction Railway.
22 Feb.	Great Northern and Manchester, Sheffield, and Lincolnshire Railway Companies (Cheshire Lines, &c.)
	Holywell Railway.
15 Feb.	Hoylake Railway (New Works).
15 Feb.	Mold and Denbigh Junction Railway (Deviations, &c.)
15 Feb.	Mold and Denbigh Junction Railway (Extensions).
15 Feb.	Wrexham and Minera Railway.
15 Feb.	Wrexham, Mold, and Connah Quay Railway (Dee Valley Branch).
15 Feb.	Wrexham, Mold, and Connah's Quay Railway (New Lines).

Group 12.

Read 2°	
15 Feb.	Bishop's Castle Railway (Chirbury to Minsterley).
	Bishop's Castle Railway (Deviations, &c.)
15 Feb.	Bishop's Castle Railway (Extensions to Craven Arms, &c.)
16 Feb.	Central Wales and Staffordshire Junction Railway.
22 Feb.	Drayton Junction Railway (Extensions).
20 Feb.	North Staffordshire Railway (Potteries Loop Line).
15 Feb.	Shrewsbury and North Wales Railway.
	Shrewsbury and Potteries Junction Railway.
15 Feb.	Stafford and Uttoxeter Railway.
20 Feb.	Wolverhampton and Bridgnorth Railway.
20 Feb.	Wolverhampton and North Staffordshire Junction Railway.
22 Feb	Wolverhampton and Walsall Railway.

Group 13.

15 Feb.	Alcester, Stratford-upon-Avon, and Warwick Junction Railway.
22 Feb.	Bedford, Northampton, and Weedon Railway.
	Chipping Norton, Banbury, and East and West Junction Railway.
15 Feb.	Coventry Central Station and South Junction Railway.
15 Feb.	East and West Junction Railway (Extension).
	Evesham and Redditch Railway.
15 Feb.	Halesowen and Bromsgrove Branch Railways.
15 Feb.	London, Worcester, and South Wales Railway (Stratford-on-Avon to Worcester.
15 Feb.	Newport Pagnell Railway (Extension to Olney).
	Northampton and Banbury Junction Railway (Deviation).
	Northampton and Banbury Junction Railway (Extensions).
15 Feb.	Southam Railway (Further Powers).
15 Feb.	Tewkesbury and Malvern Railway.

Group 14.

15 Feb.	East Gloucestershire and Wiltshire Railway.
15 Feb.	Great Western (Additional Powers).
	Monmouth, Forest of Dean, and Standish Junction Railway.
15 Feb.	North and South Wiltshire Junction Railway.
15 Feb.	Severn Junction Railway.
20 Feb.	South Wales and Great Western Direct Railway.
	Stonehouse and Nailsworth Railway.
15 Feb.	Wiltshire Railway.

Group 15.

15 Feb.	Abergavenny and Monmouth Railway.
	Alexandra (Newport) Docks.
	East Usk Railway and Dock (No. 1).
	Monmouthshire Railway and Canal.
15 Feb.	Newport and Usk Railway.
20 Feb.	Pontypool Caerleon, and Newport Railway.
	Ross and Forest of Dean Railway.
20 Feb.	Ross and Monmouth Railway.
15 Feb.	Vale of Crickhowell Railway (Eastern Extension).
	Vale of Crickhowell Railway (Western Extension).
15 Feb.	Worcester, Dean Forest, and Monmouth Railway.

Group 16.

Read 2°

Ashby-de-la-Zouch and Nuneaton Railway.
Hemel Hempstead and London and North Western Railway.
15 Feb. London, Bucks, and East Gloucestershire Railway.
15 Feb. Manchester, Sheffield, and Lincolnshire Railway (Worksop to Mansfield).
15 Feb. Mansfield and Retford Railway.
15 Feb. Midland Railway (Mansfield, &c.)
15 Feb. Rickmansworth, Amersham, and Chesham Railway.

Group 17.

15 Feb. Althorpe-on-Trent and Lincoln Railway.
15 Feb. Great Northern Railway (Sleaford to Bourn).
Goole, Keadby, and Haxey Railway.
Lancashire and Yorkshire and Great Eastern Junction Railway.
15 Feb. Spalding and Bourn Railway.
17 Feb. Spilsby and Firsby Railway.

Group 18.

Bangor and Llanberis Direct Railway.
15 Feb. Beddgelert Railway.
15 Feb. Carnarvon and Llanberis Railway.
Carnarvon, Beddgelert, and Portmadoc and Carnarvon, Pen-y-groes, and Pwllheli Direct Railways.
15 Feb. Carnarvonshire Railways.
15 Feb. Corwen and Bala, and Bala and Dolgelly Railways.
Croesor and Portmadoc Railway.
15 Feb. Denbigh, Ruthin, and Corwen Railway (Extension).
Garth Quarry Railways.
London and North Western Railway (New Works and Additional Powers) (Wales and Ireland).
Nantlle Railway.

Group 19.

20 Feb. Aberystwith and Welsh Coast Railway (No. 1).
15 Feb. Aberystwith and Welsh Coast Railway (Steamboats).
22 Feb. Cambrian Railways (Aberystwith and Welsh Coast Railway Amalgamation).
Cambrian Railways (Additional Powers).
20 Feb. Cambrian Railways (Coast Extension).
22 Feb. Cambrian Railways (Steamboats).
15 Feb. Lugg Valley Railway.
Manchester and Milford Railway.
15 Feb. Mid-Wales Railway (Eastern Extension).
15 Feb. Mid-Wales Railway (Western Extensions).
Mowddwy Railway.
15 Feb. Tallyllyn Railway.

Group 20.

Read 2°	
20 Feb.	Afon Valley Railway.
22 Feb.	Amman Valley Railway.
15 Feb.	Barry Railway.
	Brecon and Landovery Junction Railway.
22 Feb.	Brecon and Merthyr Tydfil Junction Railway (Amalgamation).
	Brecon and Merthyr Tydfil Junction Railway (Various Powers).
	Brynmawr, Blaenafon, and Pontypool Railway.
15 Feb.	Bute Docks, Cardiff (No. 1).
15 Feb.	Bute Docks, Cardiff (No. 2).
15 Feb.	Ebbw Valley and Cardiff Junction Railway.
	Ely and Ogmore Valleys Junction Railway.
15 Feb.	Llantrissant and Taff Vale Junction Railway.
	Neath and Brecon Railway.
20 Feb.	Ogmore Valley and Ely Valley Extension Railway Companies.
	Ogmore Valley Railways (New Works) (No. 1).
	Ogmore Valley Railways (New Works) (No. 2).
15 Feb.	Sirhowy Railway.
15 Feb.	Swansea and Aberystwith Junction Railway.
	Swansea Canal Transfer.
20 Feb.	Swansea Vale and Neath and Brecon Junction Railway.
15 Feb.	Vale of Neath Railway (Swansea Lines, &c.)
15 Feb.	Vale of Neath Railway (Transfer, &c.)

SECOND REPORT

FROM THE

GENERAL COMMITTEE

ON

RAILWAY AND CANAL BILLS.

Ordered, by The House of Commons, *to be Printed*,
23 *February* 1865.

66—I. *Under* 1 *oz.*

THIRD REPORT

FROM THE

GENERAL COMMITTEE

ON

RAILWAY AND CANAL BILLS.

The General Committee on Railway and Canal Bills have made the following Alteration in Group 1, and have formed the following Bills into Groups, and have agreed to Report the same to The House :—

The Regent Canal (Limehouse Basin and Cut) Bill
is added to Group 1.

Group 21.

Read 2°	
27 Feb.	Aboyne and Braemer Railway.
27 Feb.	Blane Valley Railway.
15 Feb.	Caledonian Railway (Balerno and Penicuick Branches).
15 Feb.	Callander and Oban Railway.
27 Feb.	Crieff and Comrie Railway.
15 Feb.	Dunblane, Doune and Callander, and Scottish Central Railway Companies.
15 Feb.	Esk Valley Railway.
15 Feb.	Inverness and Perth Junction, and Inverness and Aberdeen Junction Railway Companies.
15 Feb.	North British Railway (Additional Powers).
15 Feb.	North British Railway (Edinburgh Station and Market).
15 Feb.	North British Railway (Lasswade, &c. Branches).
	Perth General Railway Station.
15 Feb.	Perth General Railway Station, Scottish Central, Scottish North Eastern, North British, and Inverness and Perth Junction Railway Companies.
15 Feb.	Perth General Railway Station, Scottish Central, Scottish North Eastern, North British, and Inverness and Perth Junction Railway Companies (Station, Hotel, &c.)
15 Feb.	Strathspey Railway.
22 Feb.	Sutherland Railway.

Group 22.

Read 2°

15 Feb. Caledonian and Scottish Central Railway Companies.
15 Feb. Caledonian Railway (Additional Powers).
15 Feb. Caledonian Railway (Cleland and Mid-Calder Railway and Branches).
15 Feb. Caledonian Railway (Corstorphine and Bangholm Junctions).
15 Feb. Edinburgh and Glasgow and Monkland Railway Companies.
15 Feb. Edinburgh and Glasgow Railway (No. 1).
15 Feb. Edinburgh and Glasgow Railway (No. 2).
15 Feb. Edinburgh and Glasgow Railway (No. 3).
15 Feb. Glasgow and North Western Railway.
15 Feb. Monkland Railway,
15 Feb. North British and Edinburgh and Glasgow Railway Companies.
15 Feb. North British and Edinburgh and Glasgow (Bridge of Forth Railways).
Tay Bridge and Dundee Union Railway.

Group 23.

15 Feb. Caledonian Railway (Glasgow South Side Railways, &c.)
15 Feb. Caledonian Railway (Barrhead and Paisley Branches, &c.)
15 Feb. Crofthead and Kilmarnock Extension Railway.
27 Feb. General Terminus and Glasgow Harbour and Caledonian Railway Companies.
20 Feb. Glasgow and South Western Railway (City of Glasgow Union).
15 Feb. Glasgow and South Western Railway (Kilmarnock Direct).
Glasgow City, Suburban, and Harbour Railway.
20 Feb. Glasgow (City) Union Railway.
Greenock Railway.

Group 24.

15 Feb. Ayr and Douglas Junction Railway.
27 Feb. Caledonian Railway (Branch to Dumfries and Lockerby Railway).
15 Feb. Caledonian Railway (Muirkirk and Glespin Branches).
27 Feb. Dumfries, Lochmaben, and Lockerby Junction and Caledonian Railway Companies.
27 Feb. Girvan and Portpatrick Junction Railway.
15 Feb. Glasgow and South Western Railway (Additional Powers).
15 Feb. Glasgow and South Western Railway (Ayrshire Lines).
15 Feb. Glasgow and South Western, Maybole and Girvan, Ayr and Maybole, Castle Douglas and Dumfries, Bridge of Weir and Kirkcudbright Railway Companies.
20 Feb. Kirkcudbright Railway.
15 Feb. North British Railway (Carlisle Citadel Station Branch).

THIRD REPORT

FROM THE

GENERAL COMMITTEE

ON

RAILWAY AND CANAL BILLS.

Ordered, by The House of Commons, *to be Printed,*
28 *February* 1865.

FOURTH REPORT

FROM THE

GENERAL COMMITTEE

ON

RAILWAY AND CANAL BILLS.

The General Committee on Railway and Canal Bills have made the following Alterations in Group 1, and have agreed to Report the same to The House :—

Group 1 is divided into two Groups; viz.—

Group 1 A.

Read 2°

15 Feb.	Barnet, Hendon, Hampstead and London Railway.
	Edgware, Highgate and London Railway.
15 Feb.	Fulham Railway.
20 Feb.	Great Eastern Railway (Additional Powers).
15 Feb.	Great Northern Railway (Hornsey and Hertford Branch).
22 Feb.	Hornsey and Kingsland Junction Railway.
15 Feb.	Metropolitan and St. John's Wood Railway.
15 Feb.	North London, Highgate and Alexandra Park Railway.
27 Feb.	Tottenham and Hampstead Junction Railway (Deviations).
27 Feb.	Tottenham and Hampstead Junction Railway (New Lines).
17 Feb.	Wood Green, Winchmore Hill, and Enfield Railway.
15 Feb.	North Surrey Railway.

Group 1 B.

Read 2°

27 Feb. East London Railway.

15 Feb. Great Eastern and London and Blackwall Railway.

15 Feb. London, Blackwall and Millwall Extension Railway.

15 Feb. London, Brighton, and South Coast Railway (Additional Powers).

London, Chatham, and Dover, and London and South Western Railway Company.

6 Mar. London, Chatham, and Dover Railway (No. 1).

15 Feb. London and South Western Railway (Kensington, &c.)

15 Feb. Metropolitan District Railway.

15 Feb. Metropolitan Railway.

15 Feb. North London Railway.

17 Feb. Regent's Canal (Limehouse Basin and Cut).

22 Feb. Waterloo and Whitehall Railway.

15 Feb. Hammersmith and City Railway.

FOURTH REPORT

FROM THE

GENERAL COMMITTEE

ON

RAILWAY AND CANAL BILLS.

Ordered, by The House of Commons, *to be Printed,*
9 *March* 1865.

66—III.

Under 1 *oz.*

FIFTH REPORT

FROM THE

GENERAL COMMITTEE

ON

RAILWAY AND CANAL BILLS.

The General Committee on Railway and Canal Bills have made the following alterations in Group 4, and have agreed to Report the same to The House :—

Group 4.

The following Bills are taken out of Group 4 :—

Radstock and Bath Railway.
Bristol and North Somerset Railway (Bristol and Bath Lines).
Bristol and North Somerset Railway (Southern Extension).
Burnham Tidal Harbour.
East Somerset Extension Railways.

FIFTH REPORT

FROM THE

GENERAL COMMITTEE

ON

RAILWAY AND CANAL BILLS.

Ordered, by The House of Commons, *to be Printed,*
16 *March* 1865.

66.—IV.

SIXTH REPORT

FROM THE

GENERAL COMMITTEE

ON

RAILWAY AND CANAL BILLS.

The General Committee on Railway and Canal Bills have made the following alterations in the Groups already formed, and have agreed to Report the same to The House :—

Group 2.

The South Eastern Railway Bill is taken out of Group 2.

Group 10.

The following Bills are taken out of Group 16, and are added to Group 10 :—

Read 2°

15 Feb. Manchester, Sheffield, and Lincolnshire Railway (Worksop to Mansfield).
15 Feb. Mansfield and Retford Railway.
15 Feb. Midland Railway (Mansfield, &c.)

Group 14.

The following Bills are added to Group 14 :—

Radstock and Bath Railway.
Bristol and North Somerset Railway (Southern Extension).
East Somerset Extensions Railways.

And the—

London, Bucks, and East Gloucestershire Railway Bill, which Bill is taken out of Group 16.

SIXTH REPORT

FROM THE

GENERAL COMMITTEE

ON

RAILWAY AND CANAL BILLS.

Ordered, by The House of Commons, *to be Printed,*
24 *March* 1865.

66—V.

SEVENTH REPORT

FROM THE

GENERAL COMMITTEE

ON

RAILWAY AND CANAL BILLS.

THE GENERAL COMMITTEE on RAILWAY and CANAL BILLS have made the following alterations in the Groups already formed, and have agreed to Report the same to The House :—

Group 14.

Read 2°
15 Feb. The Rickmansworth, Amersham, and Chesham Railway Bill is taken out of Group 16, and added to Group 14.

Group 17.

The following Bills are added to Group 17 :—

15 Feb. Comber and Grey Abbey Railway.
28 Feb. Midland Great Western Railway of Ireland (No. 2.)
15 Feb. Newry and Greenore Railway.
27 Feb. South Eastern Railway.

SEVENTH REPORT

FROM THE

GENERAL COMMITTEE

ON

RAILWAY AND CANAL BILLS.

Ordered, by The House of Commons, *to be Printed,*
30 *March* 1865.

66—VI.

EIGHTH REPORT

FROM THE

GENERAL COMMITTEE

ON

RAILWAY AND CANAL BILLS.

The General Committee on Railway and Canal Bills have made the following alterations in the Groups already formed, and have agreed to Report the same to The House:—

Group 19.

The following Bills are taken out of Group 18, and added to Group 19:

Read 2°	
15 Feb.	Carnarvon and Llanberis Railway.
15 Feb.	Carnarvonshire Railways.
27 Feb.	Crœsor and Portmadoc Railway.
15 Feb.	Denbigh, Ruthin, and Corwen Railway (Extension).
7 Mar.	Garth Quarry Railways.
28 Feb.	London and North Western Railway (New Works and Additional Powers) (Wales and Ireland).
28 Feb.	Nantlle Railway.

EIGHTH REPORT

FROM THE

GENERAL COMMITTEE

ON

RAILWAY AND CANAL BILLS.

Ordered, by The House of Commons, *to be Printed,*
1 *May* 1865.

NINTH REPORT

FROM THE

GENERAL COMMITTEE

ON

RAILWAY AND CANAL BILLS.

The General Committee on Railway and Canal Bills have made the following alteration in Group 15, and have agreed to Report the same to The House :—

Group 15.

The Kidwelly and Llanelly Canal and Tramroad Bill [*Lords*], is added to Group 15.

NINTH REPORT

FROM THE

GENERAL COMMITTEE

ON

RAILWAY AND CANAL BILLS.

Ordered, by The House of Commons, *to be Printed,*
26 *May* 1865.

66—VIII.

TENTH REPORT

FROM THE

GENERAL COMMITTEE

ON

RAILWAY AND CANAL BILLS.

The General Committee on Railway and Canal Bills have made the following alterations in the Groups already formed, and have agreed to Report the same to The House:—

Group 9.

The following Bills are taken out of Group 10, and added to Group 9:—

1. Manchester, Sheffield, and Lincolnshire Railway (Worksop to Mansfield).
2. Mansfield and Retford Railway.
3. Midland Railway (Mansfield, &c. Lines).

Group 15.

The following Bills are taken out of Group 15, and put into a new Group, 15 A:—

1. Newport and Usk Railway.
2. Pontypool, Caerleon, and Newport Railway.

TENTH REPORT

FROM THE

GENERAL COMMITTEE

ON

RAILWAY AND CANAL BILLS.

Ordered, by The House of Commons, *to be Printed,*
9 *June* 1865.

66—IX.

ELEVENTH REPORT

FROM THE

GENERAL COMMITTEE

ON

RAILWAY AND CANAL BILLS.

The General Committee on Railway and Canal Bills have made the following new Group, and have agreed to Report the same to The House :—

Group 25.

Read 2°

1 May. Bagenalstown and Wexford Railway.

1 June. Llanelly Railway and Dock (Extension to Mumbles) [*Lords*].

ELEVENTH REPORT

FROM THE

GENERAL COMMITTEE

ON

RAILWAY AND CANAL BILLS.

Ordered, by The House of Commons, *to be Printed,*
15 *June* 1865.

66—X.

TWELFTH REPORT

FROM THE

GENERAL COMMITTEE

ON

RAILWAY AND CANAL BILLS.

The General Committee on Railway and Canal Bills have made the following new Group, and have agreed to Report the same to The House :—

Group 26.

Read 2°

16 May. Launceston, Bodmin, and Wadebridge Junction Railway [*Lords*].

1 June. Dublin, Wicklow, and Wexford Railway [*Lords*].

8 June. Dublin Trunk Connecting Railway (Deviations) [*Lords*].

21 June. Dublin Metropolitan Junction Railway [*Lords*].

19 June. North Kent Railway [*Lords*].

TWELFTH REPORT

FROM THE

GENERAL COMMITTEE

ON

RAILWAY AND CANAL BILLS.

Ordered, by The House of Commons, *to be Printed,*
22 *June* 1865.

66—XI.

R E P O R T

FROM THE

SELECT COMMITTEE

ON THE

KITCHEN AND REFRESHMENT ROOMS (HOUSE OF COMMONS);

WITH THE

PROCEEDINGS OF THE COMMITTEE.

Ordered, by The House of Commons, *to be Printed,*
29 *June* 1865.

Mercurii, 8° die Februarii, 1865.

Ordered, THAT a Standing Committee be appointed to Control the Arrangements of the Kitchen and Refreshment Rooms, in the Department of the Serjeant-at-Arms attending this House:

Committee nominated of—

Colonel French.	Colonel White.
Mr. Bentinck.	Mr. Onslow.
Lord Robert Montagu.	Mr. Alderman Rose.
Mr. Dalglish.	

Ordered, THAT Three be the Quorum of the Committee.

Jovis, 29° die Junii, 1865.

Ordered, THAT the Committee have power to Report their Observations to The House.

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PROCEEDINGS OF THE COMMITTEE - - - - - p. iv

REPORT.

THE SELECT COMMITTEE appointed to Control the Arrangements of the KITCHEN and REFRESHMENT ROOMS, HOUSE of COMMONS, in the Department of the SERJEANT-AT-ARMS attending The HOUSE;——HAVE agreed to the following REPORT:—

YOUR COMMITTEE beg to call the attention of the House to the defective state of ventilation in the Dining Rooms, and they are of opinion that some steps ought to be taken during the recess for its improvement. They adhere to the opinion expressed in their Report of last year, that an enlargement of the Dining Rooms is essential for the proper accommodation of Members, and they consider that the scheme proposed by Mr. Barry, in 1863, would, if adopted, efficiently carry out that object, and would at the same time be a means of improving the ventilation of the rooms. Your Committee have reason to believe, from the absence of complaints, that the arrangements for dining, &c. (with the exception of the particulars above mentioned) continue to give general satisfaction.

29 *June* 1865.

PROCEEDINGS OF THE COMMITTEE.

Lunæ, 13° *die Februarii*, 1865.

MEMBERS PRESENT:

Colonel French. | Lord Robert Montagu.
Mr. Bentinck.

Colonel FRENCH was called to the Chair.

The Committee deliberated.

Resolved, "That the Committee, being satisfied with the manner in which Mr. Henry Lucas managed the Refreshment Rooms during last Session, do recommend him to the Serjeant-at-Arms as a suitable person to hold the appointment of Keeper of the Refreshment Rooms (House of Commons)."

Resolved, "That the Serjeant-at-Arms be requested to send a demand to the Office of Works for certain articles required for the Kitchen and Refreshment Rooms."

[Adjourned till Thursday, February 23d.

Jovis, 23° *die Februarii*, 1865.

MEMBERS PRESENT:

Colonel FRENCH in the Chair.

Mr. Bentinck. | Mr. Dalglish.

Letter received from the Serjeant-at-Arms, confirming the appointment of Mr. Henry Lucas, as Keeper of the Refreshment Rooms, was read as follows:—

"Sir, "House of Commons, 15 February 1865.

"In reply to your letter of the 13th instant, I have to request you will inform the Committee on Kitchen and Refreshment Rooms, that, in accordance with their Resolution, I have confirmed the appointment of Mr. Henry Lucas, as Keeper of the Refreshment Rooms.

"I am, &c.
(signed) *Charles H. Russell*,
Serjeant-at-Arms."

"The Clerk,
Kitchen and Refreshment Rooms
Committee."

Committee deliberated.

[Adjourned.

Lunæ, 3° *die Aprilis*, 1865.

MEMBERS PRESENT:

Colonel FRENCH in the Chair.

Mr. G. Bentinck.	Alderman Rose.
Mr. Dalglish.	Lord Robert Montagu.

Mr. *Lucas* handed in a list of articles required for the Kitchen and Refreshment Rooms.

Resolved, "That the Serjeant-at-Arms be requested to order from the Office of Works the articles required for the Kitchen and Refreshment Rooms."

Resolved, "That the attention of the Serjeant-at-Arms be called to the sum of 8 *l.* 15 *s.* 6 *d.*, the value of the wine abstracted from the cellars in the year 1864."

[Adjourned.

Jovis, 4° *die Maii*, 1865.

MEMBERS PRESENT:

Colonel FRENCH (Chairman).

Mr. Bentinck.	Colonel White.
Mr. Onslow.	

A letter received from the Serjeant-at-Arms, referring to the Resolution of the Committee of the 3d April, and stating that he had directed that 8 *l.* 15 *s.* 6 *d.*, the value of the wine abstracted, should be paid out of the Contingent Fund, was read as follows:—

"Sir, "House of Commons, 4 April 1865.

"With reference to the Resolution of the Kitchen and Refreshment Committee of the 3d instant, calling my attention to the sum of 8 *l.* 15 *s.* 6 *d.*, the value of the wine abstracted from the cellars of the House in the year 1864, I beg to inform the Committee that, having inquired into the circumstances of the case, I have directed the amount to be paid out of the Contingent Fund of my Department.

"I am, &c.

"The Chairman, (signed) "*Charles H. Russell*,
"Kitchen and Refreshment Committee." "Serjeant-at-Arms."

Certain complaints were considered.

Mr. *Lucas*, examined.

Resolved, "That the Serjeant-at-Arms be requested to send a demand for certain articles required for the use of the Kitchen and Refreshment Rooms."

[Adjourned.

Martis, 27° die Junii, 1865.

MEMBERS PRESENT:

Colonel FRENCH in the Chair.

Colonel White. | Mr. Dalglish.

A Statement was handed in by Mr. Lucas, of the number of dinners supplied to Members during the present Session:

NUMBER of DINNERS supplied in Dining Room during Session 1865.

FEB.	DINNERS.	MARCH.	DINNERS.	APRIL.	DINNERS.	MAY.	DINNERS.	JUNE.	DINNERS.
7 Feb.	101	1 Mar.	42	3 April	74	1 May	106	1 June	72
9 „	62	2 „	102	6 „	58	2 „	97	2 „	56
10 „	60	6 „	90	7 „	64	4 „	96	8 „	64
13 „	40	7 „	120	24 „	42	5 „	44	9 „	46
14 „	33	9 „	58	25 „	38	8 „	172	12 „	124
16 „	32	10 „	67	27 „	96	9 „	48	13 „	102
17 „	78	13 „	109	28 „	50	10 „	64	15 „	74
23 „	64	14 „	80			11 „	127	16 „	71
24 „	98	16 „	69			12 „	60	19 „	84
27 „	90	17 „	64			15 „	122	20 „	98
28 „	62	20 „	74			16 „	62	22 „	66
		21 „	141			18 „	106	23 „	54
		23 „	130			19 „	76	26 „	38
		24 „	65			23 „	72		
		27 „	127			25 „	97		
		28 „	120			26 „	60		
		30 „	65			29 „	74		
		31 „	100			30 „	37		
11 days	720	18 days	1,623	7 days	422	18 days	1,520	13 days	949
								18 „	1,520
								7 „	422
								18 „	1,623
								11 „	720
						TOTAL - - -		67 „	) 5234 (78 average.
									469
									544
									536
									8

Resolved, "That the Serjeant-at-Arms be requested to send a demand for certain articles required for the use of the Kitchen and Refreshment Rooms."

Resolved, "That the Chairman be directed to move for power to Report observations."

Report read, and agreed to, as follows:

"Your Committee beg to call the attention of The House to the defective state of the ventilation in the Dining Rooms, and they are of opinion that some steps ought to be taken during the Recess for its improvement. They adhere to the opinion expressed in their Report of last year, that an enlargement of the Dining Rooms is essential for the proper accommodation of Members, and they consider that the scheme proposed by Mr. Barry, in 1863, would, if adopted, efficiently carry out that object, and would at the same time be a means of improving the ventilation of the rooms. Your Committee have reason to believe, from the absence of complaints, that the arrangements for dining, &c. (with the exception of the particulars above mentioned) continue to give general satisfaction."

Ordered, To Report.

[Adjourned.

REPORT

FROM THE

SELECT COMMITTEE

ON THE

KITCHEN AND REFRESHMENT ROOMS (HOUSE OF COMMONS);

WITH THE

PROCEEDINGS OF THE COMMITTEE.

Ordered, by The House of Commons, *to be Printed,*
29 *June* 1865.

428.

Under 1 0*s*.

REPORT

FROM THE

SELECT COMMITTEE

ON

AZEEM JAH (SIGNATURES TO PETITIONS);

TOGETHER WITH THE

PROCEEDINGS OF THE COMMITTEE

AND THE

MINUTES OF EVIDENCE.

Ordered, by The House of Commons, *to be Printed*,
28 *April* 1865.

Jovis, 23° *die Martii*, 1865.

Ordered, That a Select Committee be appointed to inquire into the circumstances under which, and the Parties by whom, the Signatures were annexed to the Petitions relating to the case of Prince Azeem Jah, presented during the present Session.

Ordered, That the said Petitions be referred to the Committee.

Veneris, 24° *die Martii*, 1865.

Committee nominated of—

Mr. Charles Forster.
Mr. Bonham-Carter.
Sir James Fergusson.
Major Gavin.
Mr. Lyall.
Mr. Taverner John Miller.
Sir Colman O'Loghlen.
Mr. Hastings Russell.
Mr Alderman Salomons.
Mr. Owen Stanley.
Sir FitzRoy Kelly.
Mr. Hennessy.
Mr. Cox.

Ordered, THAT the Committee have power to send for Persons, Papers, and Records.

Ordered, THAT Five be the Quorum of the Committee.

Veneris, 28° *die Aprilis*, 1865.

Ordered, That the Committee have power to report their Observations and Opinion, together with the Minutes of Evidence taken before them, to The House.

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PROCEEDINGS OF THE COMMITTEE - - - - - - p. v
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REPORT.

THE SELECT COMMITTEE appointed to inquire into the circumstances under which, and the Parties by whom, the SIGNATURES were annexed to the PETITIONS relating to the CASE of PRINCE AZEEM JAH, presented during the present Session; —— HAVE considered the matters to them referred, and have agreed to the following REPORT:—

YOUR Committee find that Mr. John Strutt, a solicitor and Parliamentary Agent, of 2, Adelphi-terrace, Strand, was, three years ago, appointed to act as Parliamentary Agent to Prince Azeem Jah, by Poorooshottum Modelliar, a native agent of the Prince in this country. Poorooshottum Modelliar having been recalled, Mr. Emerson Dawson came to England from India, and thenceforth acted as agent for the Prince, under whom Mr. Strutt continues to hold his appointment. In virtue of such appointment, Mr. Strutt employed agents in various localities, and furnished them with money from time to time to get up petitions in support of the Prince's claims.

Your Committee find, from the evidence of the Clerk to the Committee of Public Petitions, that the attention of that Committee was called to several of these Petitions, and there being strong grounds for suspecting them to be fictitious, they made a Special Report on the subject to the House.

Your Committee have satisfied themselves, from the evidence of an Expert of great eminence, and also from ocular inspection, that in 18 of the Petitions which have been presented from the following places, viz., Westminster; Pimlico; St. Martin's-in-the-Fields; Stratford; St. John's, Hackney; St. John's, Hackney; City of London; City of London; Paddington; Westminster; Romford; City; Barnsbury; Holloway; St. Mary, Islington; St. Marylebone; St. Matthew, Bethnal-green; and Rochester; a concerted system of fraud has been perpetrated; in some of them as many as one-half of the names appear to have been forged, and about one-third of the whole number fictitious; thus leaving open to grave suspicion the genuineness of the remainder, concerning which your Committee have not thought it necessary to take evidence.

In the case of the Petitions from Westminster, Pimlico, Hackney, and City of London, to which the attention of your Committee has been more particularly directed, it has been proved that George Morris Mitchell was engaged by Mr. Strutt to procure signatures at a remuneration of 1*d.* per signature, and that he was assisted in so doing by his clerk, Powell Marshall, and by Henry Whitehead. It has been proved that a great proportion of these signatures are forgeries; and among the number so forged are to be found the names of five officials of the Houses of Parliament, and of other persons, residing in their immediate vicinity, who appeared before your Committee and declared that they gave no authority for affixing their names, and that their names were so affixed without their knowledge.

It appears that Mr. Strutt furnished to Mitchell a printed form of Petitions, and that to Petitions thus framed, while under the control of Mitchell, forged signatures were attached. The Expert having examined the 18 Petitions to which reference has been made, and "carefully compared the signatures thereto

attached with the genuine handwriting of Mitchell as exhibited in a signature of the said Petition, and to two receipts for money, and to a letter purporting to have been written by Mitchell, marked A," reports in the following words:—"My conscientious and unprejudiced opinion is, that the said George Mitchell has, by disguise and otherwise, written hundreds of the said signatures to the several petitions." The Expert also gives 34 forged names as being in the handwriting of Henry Whitehead, and a certain number in that of Powell Marshall, his knowledge of their handwriting having been acquired from admitted signatures, and other documents given in evidence.

Francis Robert Graham, whose name stands first on the City of London Petition, stated that such signature was affixed to the petition without his authority, and that he was not aware till the time he was then speaking that his name had been so affixed. Mitchell himself subsequently admitted that the signature was in his (Mitchell's) handwriting, but he alleged that it was written by Mr. Graham's authority.

Your Committee are further of opinion, and have resolved, after mature consideration of the whole of the Evidence, and a careful inspection of the signatures in question,

1. That George Morris Mitchell has been guilty of the offence of fabricating many signatures to the above-mentioned petitions, and of knowingly procuring other fabricated signatures thereto, and has therein committed a breach of the privileges of this House.

2. That Powell Marshall and Henry Whitehead have also, in concert with the said George Morris Mitchell, been guilty of the offence of fabricating signatures to several of the above petitions, and have therein committed a breach of the privileges of the House.

It has not been proved to your Committee that Mr. Strutt was personally engaged in any of these frauds; but your Committee would nevertheless desire strongly to reprobate the mode which he adopted with Mitchell, of remunerating him at 1 *d.* per signature for the signatures procured, as holding out temptation to the frauds which were afterwards committed.

Your Committee have not considered it requisite to carry the investigation further throughout the whole of the 18 petitions upon which suspicion has been cast, sufficient proof having been given of the complicity of the three persons named in regard to some of these petitions more particularly referred to in the Report. No evidence has been given concerning the remaining petitions in the Order of Reference leading to the conclusion that a similar practice has prevailed with regard to them.

28 April 1865.

PROCEEDINGS OF THE COMMITTEE.

Lunæ, 27° *die Martii*, 1865.

MEMBERS PRESENT:

Mr. Hastings Russell.	Major Gavin.
Mr. Owen Stanley.	Mr. Miller.
Mr. Alderman Salomons.	Mr. Cox.
Mr. Forster.	Sir James Fergusson.
Mr. Bonham-Carter.	Mr. Hennessy.

Mr. *Forster* was called to the Chair.

Mr. *Ginger*, Mr. *Bull*, Mr. *Claxton*, Mr. *Charles Cross Davenport*, Mr. *Charles Eales*, and Mr. *H. Stone Smith*, were severally examined.

[Adjourned till To-morrow, at Twelve o'clock.

Martis, 28° *die Martii*, 1865.

MEMBERS PRESENT:

Mr. FORSTER in the Chair.

Mr. Stanley.	Mr. Miller.
Mr. Alderman Salomons.	Mr. Hennessy.
Mr. Cox.	Sir James Fergusson.
Mr. Bonham-Carter.	Major Gavin.
Sir FitzRoy Kelly.	

The Rev. *John Jennings*, Mr. *John R. L. Walmisley*, the Honourable *George Waldegrave-Leslie*, a Member of the House, *William Cox*, Esq., a Member of the House, and Mr. *John Strutt*, were severally examined.

[Adjourned till Friday next, at Twelve o'clock.

Veneris, 31° *die Martii*, 1865.

MEMBERS PRESENT:

Mr. FORSTER in the Chair.

Mr. Cox.	Mr. Lyall.
Mr. Miller.	Mr. Hastings Russell.
Mr. Stanley.	Mr. Alderman Salomons.
Sir FitzRoy Kelly.	Major Gavin.
Mr. Bonham-Carter.	

Mr. *John Strutt* further examined.

Mr. *Poingdestre*, Messenger of the House, was examined as to the non-appearance of George Mitchell, summoned as a witness before the Committee, and was directed to make further endeavours to obtain his attendance. The messenger subsequently reported that he had seen the said George Morris Mitchell, and had served him with the summons of the Committee. The Committee having waited until four o'clock, and the said George Morris Mitchell not having appeared, the Chairman was directed to report the fact to the House.

[Adjourned till Monday next, at Twelve o'clock.

Lunæ, 3° die Aprilis, 1865.

MEMBERS PRESENT:

Mr. FORSTER in the Chair.

Mr. Miller.	Mr. Cox.
Mr. Stanley.	Mr. Bonham-Carter.
Mr. Alderman Salomons.	Sir Colman O'Loghlen.
Sir James Fergusson.	Major Gavin.

George Morris Mitchell, Thomas Charles, Herbert J. Cove, and *John Marshall,* were severally examined.

[Adjourned till Wednesday next, at One o'clock.

Mercurii, 5° die Aprilis, 1865.

MEMBERS PRESENT:

Mr. FORSTER in the Chair.

Mr. Miller.	Mr. Bonham-Carter.
Major Gavin.	Mr. Cox.
Mr. Stanley.	Mr. Alderman Salomons.
Sir FitzRoy Kelly.	Mr. Hennessy.

George Netherclift, William White, John Marshall, and *Herbert J. Cove,* were severally examined.

Resolved, That Messrs. *Mitchell* and *Strutt* be now called in.

Messrs. *Mitchell, Strutt,* and *Powell Marshall,* were severally examined.

Room cleared, and Committee deliberated.

Motion made, and Question proposed, That the following Question be put to the Witness: "Here is the receipt marked (D), referred to in that portion of the evidence of Mr. Mitchell which was read to you by the Chairman, and the signatures to which receipt, Mr. Mitchell states, is not in his handwriting, but thinks it may be in yours, and written by his authority; have you any remark to make upon this document?"—(Mr. *Hennessy.*)

Amendment proposed, to leave out from the word "witness" to the end of the question, in order to insert the following words: "You have heard the statement read over to you, as given by Mr. Mitchell, relating to the petitions, and the signing the receipts; have you any remark to make upon them?"—(Mr. *Owen Stanley*)—instead thereof.—Question put, That the words proposed to be left out stand part of the Question.—The Committee divided:

Ayes (5).	Noes (3).
Mr. Miller.	Major Gavin.
Sir FitzRoy Kelly.	Mr. Stanley.
Mr. Bonham-Carter.	Mr. Alderman Salomons.
Mr. Cox.	
Mr. Hennessy.	

Question put, and agreed to.

Question to the Witness put accordingly.

Room cleared, and Committee deliberated.

Motion made, and Question put, That the following Question be put to the Witness: "Give us the names of the persons to whom you entrusted the petitions for the purpose of obtaining signatures thereto"—(Mr. *Cox*).—The Committee divided:

Ayes (5).	Noes (3).
Mr. Miller.	Mr. Stanley.
Major Gavin.	Sir FitzRoy Kelly.
Mr. Alderman Salomons.	Mr. B. Carter.
Mr. Cox.	
Mr. Hennessy.	

Question put to the Witness accordingly.

Henry Whitehead, examined.

[Adjourned till To-morrow, at One o'clock.

Jovis, 6° die Aprilis, 1865.

MEMBERS PRESENT:

Mr. FORSTER in the Chair.

Major Gavin.	Mr. Miller.
Mr. Stanley.	Mr. Alderman Salomons.
Sir FitzRoy Kelly.	Mr. Hennessy.
Mr. Bonham-Carter.	

Henry Hunt, Frederick George Netherclift, and *George Morris Mitchell,* further examined.

Francis Robert Graham, Henry Whitehead, and *William Harding,* were severally examined.

[Adjourned till To-morrow, at Twelve o'clock.

Veneris, 7° die Aprilis, 1865.

MEMBERS PRESENT:

Mr. FORSTER in the Chair.

Mr. Stanley.	Mr. Alderman Salomons.
Sir FitzRoy Kelly.	Mr. Hennessy.
Mr. Bonham-Carter.	Mr. Cox.
Mr. Miller.	

William Harding and *F. G. Netherclift* further examined.

James Wyatt examined.

On a Question being put—"Will you tell us what he said to you in reference to these petitions?"

The Witness objected to the question on the ground that anything that passed between Mitchell and himself as the attorney of Mr. Mitchell, was a privileged communication as between attorney and client.

The room was cleared, and the Committee deliberated.

Resolved, That the objection is a valid one, and that the question cannot be put.

James Wyatt and *George Morris Mitchell* examined.

Room cleared, and Committee deliberated.

Motion made, and Question proposed—"That the Committee have already heard evidence enough to report to the House the result of their inquiries"—(Mr. *Stanley*).—Amendment proposed, to leave out from the word "That" to the end of the question, in order to add the words—"Mr. Netherclift, the Expert, having this day handed in a list of the names of persons, to the number of 27, which names he states, to the best of his belief, were forged by Mitchell, and this list having now for the first time been placed in the hands of Mitchell, and Mitchell having thereon stated that he desires to call these persons, for the purpose of showing that their signatures are not forgeries, it is only fair that he should have an opportunity of doing so before the Committee proceed to their Report"—(Mr. *Hennessy*)—instead thereof.—Question put, That the words proposed to be left out stand part of the Question.—The Committee divided:

Ayes (4).	Noes (2).
Mr. Miller.	Mr. Hennessy.
Mr. Stanley.	Mr. Cox.
Mr. Alderman Salomons.	
Mr. Bonham-Carter.	

Question again proposed.

Whereupon amendment proposed at the end of the Question to add the following words: "That Mitchell having been told by the Chairman that he (Mitchell) stood before the Committee 'in a position of peril,' that 'anything he said would be taken down and used against him;' and, further, that 'he might call witnesses;' and Mitchell having now stated that he desires to call witnesses, and it appears on the most material point in the case, and looking to the following evidence just given:—

'Mr. *Hennessy.*] (To *Mitchell.*) Have you been furnished with the evidence given yesterday?—(*Mitchell.*) No, I have not.

(*A copy of the Minutes of yesterday was handed to Mitchell.*)

'Mr. *Hennessy.*] Is this the first time you have seen that printed evidence?—(*Mitchell.*) It is.

'Mr. *Hennessy.*] Do you desire to peruse it, or make any comment upon it?—(*Mitchell.*) I have had hardly time to look over it.

'Mr. *Hennessy.*] Were you present yesterday whilst all that evidence was given?—(*Mitchell.*) I think not.

'Mr. *Hennessy.*] You were present only during a portion of the time?—(*Mitchell.*) I was not present here when Henry Hunt was examined. I was here when Henry Whitehead was examined.

'Mr. *Hennessy.*] Is this the first time you have seen Mr. Hunt's evidence?—(*Mitchell.*) Yes. (*After reading Mr. Hunt's evidence.*) I am anxious to get copies of the names which Mr. Netherclift states that he believes are in my handwriting.

'Mr. *Hennessy.*] You are anxious to obtain copies of those names?—(*Mitchell.*) I am.

'Mr. *Hennessy.*] I put into your hand a copy of the list of names which Mr. Netherclift declares are fictitious, which he handed in to the Committee this morning. You will see a list of names which he states are all signed by you; do you state that you desire to have an opportunity of calling any of these persons to disprove that evidence?—(*Mitchell.*) I have that desire.

'Mr. *Hennessy.*] Is this the first time you have seen that list?—(*Mitchell.*) It is.

'Mr. *Hennessy.*] Then you feel it is necessary for your defence that you should have an opportunity of calling some of these persons?—(*Mitchell.*) Certainly.'

It is highly desirable that he should have an opportunity of doing so."—(Mr. *Hennessy.*)

Question put, That those words be there added.—The Committee divided:

Ayes (2).	Noes (4).
Mr. Cox.	Mr. Miller.
Mr. Hennessy.	Mr. Stanley.
	Mr. Alderman Salomons.
	Mr. Bonham-Carter.

Question put, "That the Committee have already heard evidence enough to report to the House the result of their inquiries."—The Committee divided:

Ayes (4).	Noes (2).
Mr. Miller.	Mr. Hennessy.
Mr. Stanley.	Mr. Cox.
Mr. Alderman Salomons.	
Mr. Bonham-Carter.	

[Adjourned till Thursday 27 April, at One o'clock.

Jovis, 27° die Aprilis, 1865.

MEMBERS PRESENT:

Mr. FORSTER in the Chair.

Sir FitzRoy Kelly.	Mr. Hennessy.
Mr. Cox.	Mr. Hastings Russell.
Mr. Bonham-Carter.	Major Gavin.
Mr. Alderman Salomons.	Mr. Miller.
Mr. Owen Stanley.	

Draft Report proposed by the Chairman, read 1°, as follows:

"1. Your Committee find that Mr. John Strutt, a solicitor and Parliamentary Agent, of 2, Adelphi-terrace, Strand, was, three years ago, appointed to act as Parliamentary Agent to Prince Azeem Jah by Poorooshottun Modelliar, a native agent of the Prince in this country. Poorooshottun Modelliar having been recalled, Mr. Emerson Dawson came to England from India, under whom Mr. Strutt continues to hold his appointment. In virtue of such appointment, Mr. Strutt employed agents, in various localities, and furnished them with money from time to time to get up petitions in support of the Prince's claims.

"2. It appears from the evidence of the Clerk to the Committee of Public Petitions, that his attention in the usual course of his duties having been called to some of the petitions, he suspected from the appearance of a great number of the signatures, and from other circumstances which he mentions in his evidence, that they were fictitious, and that he communicated his suspicions to the Committee, who made a Special Report on the subject to the House.

"3. Your

"3. Your Committee have satisfied themselves, from the evidence of the Expert, and also from other ocular inspection, that in 18 of the petitions which have been presented, a wholesale system of fraud has been perpetrated: in some of them as many as one-half appear to have been forged, and about one-third of the whole number fictitious; thus leaving open to grave suspicion the genuineness of the remainder, concerning which your Committee have not thought it necessary to take evidence.

"4. In the case of the petitions from Westminster, Pimlico, Hackney, and London, to which the attention of your Committee has been more particularly directed, it has been proved that George Morris Mitchell was engaged by Mr. Strutt to procure signatures, at a remuneration of 1 *d.* per signature, and that he was assisted in so doing by Powell Marshall and Henry Whitehead. It has been proved that a great proportion of these signatures are forgeries, and among the number so forged are found the names of five officials of the Houses of Parliament, and of other persons residing in their immediate vicinity, who appeared before your Committee, and declared that they gave no authority for affixing their names, and that their names were so affixed without their knowledge.

"5. It appears that Mr. Strutt furnished to Mitchell certain forms of petitions, and that to these forms, while under the control of Mitchell, forged signatures were attached. The Expert having examined the 18 petitions to which reference has been made, and 'carefully compared the signatures thereto attached with the genuine handwriting of Mitchell as exhibited in a signature of the said petition, and two receipts for money, and to a letter purporting to have been written by Mitchell, marked A,' says, 'my conscientious and unprejudiced opinion is, that the said George Mitchell has, by disguise and otherwise, written hundreds of the said signatures to the several petitions.' The Expert also gives 34 forged names as being in the handwriting of Henry Whitehead, and a certain number in that of Powell Marshall.

"6. Francis Robert Graham, whose name stands first on the City of London Petition, stated that such signature was affixed to the petition without his authority, and that he was not aware till the time he was then speaking that his name had been so affixed. Mitchell himself subsequently admitted that the signature was in his (Mitchell's) handwriting, but he alleged that it was written by Mr. Graham's authority.

"7. It has not been proved to your Committee that Mr. Strutt personally participated in any of these frauds; but your Committee would nevertheless desire strongly to reprobate the system which he pursued of getting up wholesale petitions by means of paid agents, from localities having no apparent interest in the subject of these petitions; and it would especially animadvert on the mode of remuneration which he had adopted of 1 *d.* per signature to Mitchell, as leading to the frauds which have taken place, as derogatory to the dignity of the House, and as calculated to lessen the value which ought to attach to every petition addressed to it.

Motion made, and Question, That the Draft Report be now read 2°, paragraph by paragraph,—put, and agreed to.

Paragraphs 1, 2, 3, 4, 5, and 6, amended, and agreed to.

Motion made, and Question proposed, to insert the following paragraph after paragraph 6: —"Your Committee are further of opinion, and have resolved, after mature consideration of the evidence, and a careful inspection of the signatures in question, that George Morris Mitchell has been guilty of the offence of fabricating many signatures to the above-mentioned petitions, and of knowingly procuring other fabricated signatures thereto, and has therein committed a breach of the privileges of this House"—(*Sir FitzRoy Kelly*).—Question put.—The Committee divided:

Ayes (7).	Noe (1).
Major Gavin.	Mr. Hennessy.
Mr. Hastings Russell.	
Mr. Owen Stanley.	
Mr. Alderman Salomons.	
Sir FitzRoy Kelly.	
Mr. Bonham-Carter.	
Mr. Taverner John Miller.	

Motion made, and Question proposed, to insert the following paragraph after paragraph 6: "That Powell Marshall and Henry Whitehead have also, in concert with the said George Morris Mitchell, been guilty of the offence of fabricating signatures to several of the above petitions, and have therein committed a breach of the privileges of the House"—(Mr. Alderman *Salomons*).—Question put.—The Committee divided:

Ayes (6).	Noe (1).
Major Gavin.	Mr. Hennessy.
Mr. Hastings Russell.	
Mr. Owen Stanley.	
Mr. Alderman Salomons.	
Sir FitzRoy Kelly.	
Mr. Bonham-Carter.	

Paragraph 7, amended, and agreed to.

Motion made, and Question proposed, to insert the following paragraph after paragraph 7: "Your Committee have not considered it requisite to carry the investigation further, throughout the whole of the 18 petitions upon which suspicion has been cast, sufficient proof having been given of the complicity of the three persons named, in regard to some of these petitions more particularly referred to in the Report: no evidence has been given concerning the remaining petitions in the Order of Reference leading to the conclusion that a similar practice has prevailed with regard to them"—(Mr. *Bonham-Carter*).—Question put.—The Committee divided:

Ayes (4).	Noes (2).
Major Gavin.	Mr. Owen Stanley.
Mr. Miller.	Mr. Hennessy.
Mr. Alderman Salomons.	
Mr. Bonham-Carter.	

Question put, That this Report be the Report of the Committee to the House.—The Committee divided:

Ayes (5).	Noe (1).
Major Gavin.	Mr. Hennessy.
Mr. Miller.	
Mr. Owen Stanley.	
Mr. Alderman Salomons.	
Mr. Bonham-Carter.	

Resolved,—That the Chairman be instructed to move for power to report Observations, Opinion, and the Minutes of Evidence to the House.

Ordered, to Report.

EXPENSES OF WITNESSES.

Name of Witness.	Profession or Condition.	From whence Summoned.	Number of Days Absent from Home, under Orders of Committee.	Expenses of Journey to London and back.	Allowance during Absence from Home.	TOTAL Expenses allowed to Witness.
				£. s. d.	£. s. d.	£. s. d.
Powell Marshall -	Photographic Artist	Hitchin - -	1	1 - -	1 1 -	2 1 -
Henry Whitehead -	Independent -	Harwich - -	1	1 14 -	1 1 -	2 15 -
William Harding -	Surgeon - -	City - -	1	- 4 -	2 2 -	2 6 -
F. G. Netherclift -	Expert Writer -	Hanover-street, Hanover-square.	6	- -	18 18 -	18 18 -
John Strutt - -	Solicitor - -	Chiswick - -	5	1 4 -	5 5 -	6 9 -
				Total - - - £.		32 9 -

MINUTES OF EVIDENCE

LIST OF WITNESSES.

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William Ginger, Esq. - - - p. 1
James Burrington Bull, Esq. - p. 4
Mr. Francis Claxton - - - p. 5
Mr. Charles Cross Davenport - p. 6
Charles Eales, Esq. - - - p. 7
Henry Stone Smith, Esq. - - p. 7

Martis, 28° *die Martii*, 1865.

Rev. John Jennings, M.A. - - p. 8
John Richard Lambert Walmisley, Esq. - - - - - - - p. 8
William Cox, Esq., M.P. - - p. 9
Hon. George Waldegrave-Leslie, M.P. - - - - - - - p. 10
William Ginger, Esq. - - - p. 10
William Daniel Hawes, Esq. - - p. 11
Mr. John Strutt - - - - p. 11
Mr. Frederick George Netherclift - p. 18

Veneris, 31° *die Martii*, 1865.

Mr. James Poingdestre - - - p. 19
William Henry Coombs - - p. 20
Mr. James Poingdestre - - - p. 20
Mr. John Strutt - - - - p. 20
Mr. James Poingdestre - - - p. 21
Mr. Thomas Binge - - - p. 21
Mr. Charles Collins - - - p. 22
Mr. Walter T. Jones - - - p. 22
Mr. John Strutt - - - - p. 22
Mr. James Poingdestre - - - p. 28

Lunæ, 3° *die Aprilis*, 1865.

George Morris Mitchell - - p. 29
Mr. Thomas Charles - - - p. 30
George Morris Mitchell - - p. 30
Mr. Herbert James Cove - - p. 33
Mr. John Marshall - - - p. 34
Mr. Herbert James Cove - - p. 36
Mr. John Marshall - - - p. 36
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Mercurii, 5° *die Aprilis*, 1865.

Mr. Frederick George Netherclift - p. 38
Mr. William White - - - p. 40
Mr. Frederick George Netherclift - p. 40
Mr. John Marshall - - - p. 41
Mr. Herbert James Cove - - p. 41
Mr. Frederick George Netherclift - p. 41
Mr. Frederick George Netherclift, Mr. John Strutt, and George Morris Mitchell - - - - p. 43
George Morris Mitchell - - p. 52
Powell Marshall - - - - p. 53
Mr. Frederick George Netherclift, Powell Marshall, and George Morris Mitchell - - - p. 54
Henry Whitehead - - - p. 55
Mr. Frederick George Netherclift - p. 56

Jovis, 6° *die Aprilis*, 1865.

Henry Hunt, Esq. - - - p. 57
Mr. Frederick George Netherclift - p. 57
George Morris Mitchell - - p. 58
Mr. Francis Robert Graham - - p. 59
George Morris Mitchell - pp. 60, 62, 63
Henry Whitehead - - - pp. 60–64
Mr. Frederick George Netherclift - p. 64
Mr. William Harding - - - 67

Veneris, 7° *die Aprilis*, 1865.

Mr. William Harding - - - p. 69
Mr. Frederick George Netherclift - p. 70
Mr. James Wyatt - - . - p. 71
Mr. James Wyatt and George Morris Mitchell - - - - p. 72
George Morris Mitchell - - p. 76

MINUTES OF EVIDENCE.

Lunæ, 27° *die Martii*, 1865.

MEMBERS PRESENT.

Mr. Bonham-Carter.	Mr. Hennessy.
Mr. Cox.	Mr. Taverner John Miller.
Sir James Fergusson.	Mr. Hastings Russell.
Mr. Charles Forster.	Mr. Alderman Salomons.
Major Gavin.	Mr. Owen Stanley.

CHARLES FORSTER, Esq., in the Chair.

William Ginger, Esq., called in; and Examined.

1. *Chairman.*] WHAT is your occupation?—I am a Clerk in the Journal Office.

2. Have you the custody of public petitions?—I have.

3. How do public petitions come into your possession?—They are all, in the first instance, presented to the House. Afterwards they are conveyed to the Votes and Proceedings Room, where they are entered for the Votes. Then they are brought to me. I examine them to see whether they are informal or not upon the face of them.

4. Mr. *Bonham-Carter.*] You examine them to see whether the ordinary technicalities, required by the rules of the House, are complied with?—Yes; I examine the Public Petitions portion of the printer's proof of the Votes for the following morning; and supposing there are informalities in any of the petitions, I erase them from the proof. If there is any difficult question about them, it is submitted to the Committee on Public Petitions.

5. Mr. Alderman *Salomons.*] What do you yourself do with the petitions?—I endorse them after they are folded, and during the evening all the signatures to the petitions are counted.

6. Mr. *Bonham-Carter.*] By whom?—There are persons employed for that purpose. The following morning they are taken to Mr. Bull's room, and examined; then they are laid before the Public Petitions Committee.

7. Are not some petitions rejected at an earlier stage than that at which they come under your charge?—Yes, in the Votes and Proceedings Room.

8. *Chairman.*] You have now described what is the usual course with regard to all petitions?—Yes.

9. Was that course followed with regard to the petitions presented to the House in the course of the present Session respecting the claims of Azeem Jah?—It was.

W. Ginger, Esq.

27 March 1865.

10. Do you now produce those petitions?—Yes, all of them (*producing the same*).

11. Have you a list of all the petitions?—Yes; I have a list of all the petitions relating to the claims of Azeem Jah.

12. Mr. *Hennessy*.] Presented this Session?—Yes.

[*The Witness delivered in the same, which is as follows:*—]

1788.	March	6.	Inhabitants of Clerkenwell, in the county of Middlesex (Mr. Alderman *Sidney*)	182
1789.	„	7.	Inhabitants of the parish of St. Mary, at Islington, and its vicinity, in the county of Middlesex (Mr. *Cox*)	818
1790.	„	7.	Inhabitants of Paddington and its vicinity, in the county of Middlesex (Mr. *Harvey Lewis*)	766
			Total Number of Petitions, 3. - - Signatures - -	1,766
1918.	„	8.	Inhabitants of the parish of St. John, at Hackney, and its vicinity, in the county of Middlesex (Mr. *Salisbury Butler*	593
1919.	„	8.	- - - ditto - - - ditto - - (Mr. *Salisbury Butler*)	490
1920.	„	8.	Inhabitants of the parish of Finsbury, in the county of Middlesex (Mr. *Cox*)	520
1921.	„	9.	Inhabitants of Barnsbury, in the county of Middlesex (Mr. *Cox*)	702
1922.	„	9.	Inhabitants of the city of London, in the county of Middlesex (Mr. *Crawford*)	508
1923.	„	9.	Inhabitants of the borough of Lambeth, in the county of Surrey (Mr. *Locke King*)	378
1924.	„	9.	Inhabitants of the city of Westminster (Sir *John Shelley*)	392
			Total Number of Petitions, 10. - - Signatures - -	5,349
2066.	„	13.	Inhabitants of the city of Edinburgh, in the county of Edinburgh (Mr. *Black*)	558
2067.	„	13.	Inhabitants of Romford, in the county of Essex (Mr. *Du Cane*)	114
2068.	„	13.	Inhabitants of Woodbridge, in the county of Suffolk (*Lord Henniker*	258
2069.	„	13.	Inhabitants of Birmingham, being members of the trade societies in the county of Warwick (Mr. *Lawson*)	243
2070.	„	13.	Inhabitants of Manchester, in the county of Lancaster, being members of the trade societies (Mr. *Lawson*)	123
2071.	„	13.	Inhabitants of Leeds, in the county of York, being members of the trade societies (Mr. *Lawson*)	137
2072.	„	13.	Inhabitants of Colchester, in the county of Essex (Mr. *Taverner John Miller*)	166
2073.	„	13.	Inhabitants of the city of London, in the county of Middlesex (Mr. Alderman *Rose*)	378
2074.	„	13.	Inhabitants of Great Munden and its vicinity, in the county of Herts (Mr. *Abel Smith*)	60
2075.	„	13.	Inhabitants of the city of Coventry, in the county of Warwick, being members of the trade societies (Mr. *Treherne*)	44
2076.	„	13.	Inhabitants of Pimlico and its vicinity, in the county of Middlesex (Mr. *Waldegrave Leslie*)	602
2077.	„	13.	Manchester, in the county of Lancaster, being members of the trade societies	326
2078.	„	13.	Chiswick and Hammersmith, in the county of Middlesex	360
2079.	„	14.	Inhabitants of Westminster, in the county of Middlesex, being members of the trade societies (Mr. *Ayrton*)	282
2080.	„	14.	St. Dunstan and St. Giles, Holborn and Strand, being members of the trade societies (Mr. *Ayrton*)	244

2081.	March	14.	Bolton, in the county of Lancaster (Mr. *Barnes*) - - -	390	*W. Ginger*, Esq.
2082.	„	14.	Inhabitants of the city of Norwich, in the county of the same city (Mr. *George Pierrepont Bentinck*) - - - - -	90	27 March 1865.
2083.	„	14.	London (Mr. *Bright*) - - - - - - - - - -	279	
2084.	„	14.	Inhabitants of Birmingham, in the county of Warwick (Mr. *Bright*) - - - - - - - - - - - -	1,132	
2085.	„	14.	Stoke Newington and its vicinity, in the county of Middlesex (Mr. *Salisbury Butler*) - - - - - - - -	533	
2086.	„	14.	Inhabitants of the parish of St. Matthew, Bethnal Green and vicinity, in the county of Middlesex (Mr. *Salisbury Butler*)	380	
2087.	„	14.	Kingston-upon-Hull, in the county of the same town (Mr. *Salisbury Butler*) - - - - - - - - - -	289	
2088.	„	14.	Nottingham, in the county of Nottingham (Sir *Robert Clifton*)	266	
2089.	„	14.	Inhabitants of the borough of Oldham, in the county of Lancaster (Mr. *Cobbett*) - - - - - - - - - -	112	
2090.	„	14.	Sunderland (Mr. *Fenwick*) - - - - - - - -	288	
2091.	„	14.	Devonport, in the county of Devon (Mr. *Ferrand*) - -	468	
2092.	„	14.	Inhabitants of Bloomsbury, in the county of Middlesex (Sir *Fitzroy Kelly*) - - - - - - - - - - -	182	
2093.	„	14.	Inhabitants of the borough of Plymouth, in the county of Devon (Sir *Fitzroy Kelly*) - - - - - - - -	207	
2094.	„	14.	Inhabitants of the borough of Bury, in the county of Lancaster (Sir *Fitzroy Kelly*) - - - - - - - -	371	
2095.	„	14.	Salford, in the county of Lancaster (Sir *Fitzroy Kelly*) -	227	
2096.	„	14.	Ashton-under-Lyne, in the county of Lancaster (Sir *Fitzroy Kelly*) - - - - - - - - - - - -	174	
2097.	„	14.	Inhabitants of Seymour-street, St. Pancras, and its vicinity, in the county of Middlesex, being clerks, managers, and officials employed upon the various metropolitan railways (Mr. *Harvey Lewis*) - - - - - - - - - -	452	
2098.	„	14.	Inhabitants of the parish of St. Pancras, in the county of Middlesex (Mr. *Harvey Lewis*) - - - - - - - -	328	
2099.	„	14.	Hadley, and its vicinity, in the county of Suffolk (Major *Parker*) - - - - - - - - - - - -	47	
2100.	„	14.	Manchester, in the county of Lancaster (Mr. *Pease*) - -	284	
2101.	„	14.	Inhabitants of the city of Bristol, in the county of the same city (Sir *Morton Peto*) - - - - - - - - -	70	
2102.	„	14.	Inhabitants of Harwich, in the county of Essex (Colonel *Rowley*) - - - - - - - - - - - -	117	
2103.	„	14.	Halifax, in the county of York, being members of the trade societies (Mr. *Smollett*) - - - - - - - - -	165	
2104.	„	14.	Hull, in the county of York (Mr. *Somes*) - - - - -	156	
2105.	„	14.	Inhabitants of Stratford, in the county of Essex (Mr. *Perry Watlington*) - - - - - - - - - - - -	469	
2106.	„	14.	Inhabitants of Wrexham, in the county of Denbigh (Mr. *Whalley*) - - - - - - - - - - - -	58	
2107.	„	14.	Brighton, in the county of Sussex (Mr. *White*) - - - -	394	
			Total Number of Petitions, 52 - - Signatures - -	17,172	
2229.	„	15.	Inhabitants of Rochester, Strood, Finsbury, and Upnor, in the county of Kent (Sir *Brooke Bridges*) - - - - -	277	
2230.	„	16.	Inhabitants of Sunbury and its vicinity, in the county of Middlesex (Viscount *Enfield*) - - - - - - - - -	58	
2231.	„	17.	Inhabitants of the parish of St. Marylebone and neighbourhood, in the county of Middlesex (Lord *Fermoy*) - - - -	622	

W. Ginger, Esq.

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2232.	March	17.	Inhabitants of Holloway, in the county of Middlesex (Mr. *Harvey Lewis*) - - - - - - - - - -	965
			Total Number of Petitions, 56. - - Signatures - -	19,094
2421.	„	21.	Inhabitants of the city and borough of Westminster (Mr. *Wyld*) - - - - - - - - - - -	349
2422.	„	21.	Inhabitants of St. Martin's-in-the-Fields, and others residing in the borough of Westminster, in the county of Middlesex (Mr. *Wyld*) - - - - - - - - - -	96
			Total Number of Petitions, 58. - - Signatures - -	19,539

13. *Chairman.*] Mr. Bull is clerk to the Committee on Public Petitions, is he not?—Yes.

14. Mr. Alderman *Salomons.*] After the petitions have been before the Committee on Public Petitions, do they come back to you?—Yes; they are returned to me. I have the custody of them.

15. Mr. Bull returns them to you after they have been before the Committee?—Yes.

16. *Chairman.*] Was that course followed with regard to these petitions relating to the Azeem Jah?—Yes; then they are again examined, according to the report of the Committee on Public Petitions, to see whether they are quite correct.

17. Does the list of petitions which you have handed in include the Westminster petition?—Yes.

18. Does it also include a petition from Pimlico?—Yes. (*The same were handed in.*)

19. Mr. *Hennessy.*] Are all the other petitions which have been presented in the course of this Session relating to the case of Azeem Jah in the room?—Yes.

20. *Chairman.*] Did you send the two petitions which you have handed in from Westminster and Pimlico to Mr. Bull?—Yes, I did.

21. Mr. *Hennessy.*] Have you ever had cognisance of any cases of fraud or forgery with respect to the signatures to petitions presented to this House?—Yes. I notice that there is the name of "William Ginger" on the Pimlico petition, described as living in the street where I reside.

22. I am asking you as an official a general question. Have you heard of such cases?—Yes.

23. When?—This Session.

24. Did you ever hear of such cases before this Session?—Yes.

25. When?—I think in 1857.

26. Sir James *Fergusson.*] Do you remember any other cases?—There are other cases, but I cannot remember the details of them at the present moment.

27. Mr. Alderman *Salomons.*] Have they formed the subject of Parliamentary inquiry?—Yes.

James Burrington Bull, Esq., called in; and Examined.

J. B. Bull, Esq.

28. *Chairman.*] WHAT are you?—I am a Clerk in the Journal Office, and clerk to the Public Petitions Committee.

29. How long have you acted as clerk to the Public Petitions Committee?—I was first appointed to attend the Committee at the end of the Session in 1842.

30. Were certain petitions relating to the case of Azeem Jah brought under your notice?—They were.

31. Mr. *Bonham-Carter.*] Would they come before you formally?—All the public petitions come formally before me; there are two persons appointed by the Clerk of the House to count the signatures to the petitions. They unrol them, and have strict orders, if they notice anything peculiar in the appearance of the signatures, to report the circumstance immediately to me.

32. *Chairman.*] Did you receive these petitions from Mr. Ginger?—The petitions are first taken to Mr. Ginger's room to be endorsed; they are then brought into my room, or into the messenger's room, which is adjoining mine, where

where the signatures are counted. The messenger's room is part of the Journal Office. *J. B. Bull*, Esq.

27 March 1865.

33. Did you so receive the petitions in question?—Yes.

34. Mr. *Bonham-Carter.*] Was your attention specially called to the Westminster petition?—It was, but that was not the first one to which my attention was called.

35. From the hands of what official did you receive that petition?—From one of the persons appointed by the Clerk of the House to count the signatures to the petitions.

36. What is his name?—Francis Claxton.

37. Mr. *Hennessy.*] Have you made any endorsement on the petitions?—None at all.

38. *Chairman.*] Were the Westminster petition and the Pimlico petition brought before the Committee on Public Petitions in consequence of your attention being specially called to them?—They were.

39. Do you know what day that was?—I will supply the day.

40. Did you, in consequence of some communication made to you by Francis Claxton, examine these petitions closely?—I did; it is my duty to examine them all, either myself or by my assistants, and if there is anything suspicious, which frequently happens, I call the attention of the Committee to such signatures.

41. What steps did you take in consequence?—I called the attention of the Committee on Public Petitions to them in the usual way.

42. Mr. Alderman *Salomons.*] From information which you received, what did you do with regard to the signatures to these petitions?—I looked carefully over them; I suspected them.

43. *Chairman.*] Did you make any closer examination?—I opened the petitions and examined them, and I suspected from the appearance of the signatures on the face of the petitions that they were fictitious or forged. I saw the names of civil engineers, architects, clergymen, and other people, residing in Parliament-street and Great George-street, and in the neighbourhood of the Houses of Parliament; and I thought it was rather odd that they should sign the petition, because it does not relate to a subject which excites very general interest. I thought it strange that there should be such unanimity on such a subject. Then I found that about every sixth signature to this petition was written in blue ink; and I thought that was rather curious, because it is in a peculiar handwriting, and the signatures in blue ink appeared to me to be in the same handwriting. The second signature is the name of a gentleman who happens to be a friend of my own. He is an officer of the House of Lords, and has been there for nearly 50 years, and I thought it was very unlikely that he had signed the petition.

44. What is his name?—"Henry Stone Smith, Smith-square." I thought that was very odd, because it is not likely that there are two gentlemen of that name living in Smith-square.

45. Your friend lives in Smith-square?—Yes; he is "Chief Clerk" in the offices of the House of Lords. I felt sure he had not signed the petition, because officials of the Houses of Parliament do not usually interest themselves in public matters in this way.

46. Did you observe the names of any of the clerks of the Committees?—Pursuing the examination I found some of the officers of the House of Commons put down as having signed it; I then thought it was my duty to call the attention of the Committee to the matter.

47. Did you make inquiries as to the genuineness of some of the signatures?—I did.

48. Did you, as the result of those inquiries, think it your duty to make a special communication to the Committee on Public Petitions on the subject?—I did, as to the fact that many of the signatures were not genuine.

Mr. *Francis Claxton,* called in; and Examined.

49. *Chairman.*] ARE you employed in the Department of Public Petitions?—I am. Mr. *F. Claxton.*

50. What are your duties?—I count the signatures to the petitions, and fold the petitions.

Mr. *F. Claxton.*

27 March 1865.

51. Do you afterwards give them to Mr. Bull?—I do; they go into Mr. Ginger's hands previously to going into Mr. Bull's hands.

52. You deliver them to Mr. Ginger?—Yes.

53. And Mr. Ginger gives them to Mr. Bull?—Yes.

54. Did you call Mr. Bull's attention to the petition relating to the case of Azeem Jah?—Yes.

55. What attracted your attention to them?—I thought several of the signatures were in the same handwriting.

56. Mr. Alderman *Salomons.*] Did you count the signatures to the Westminster Petition?—Yes.

57. How many signatures are there to that petition?—Three hundred and ninety-two.

58. Did you give that petition to Mr. Ginger?—I do not know whether I gave that particular one. I thought it was a petition from the City; that called my attention to them.

59. Did you count the signatures to that?—Yes.

60. Mr. *Bonham-Carter.*] Is it part of your duty to call the attention of the Clerk of the Committee on Public Petitions to anything which appears to be informal which comes under your notice?—It is; the signatures all struck me as being very much of the same character.

61. When you count the signatures do you write on the petitions?—Yes; I put the number.

62. Mr. Alderman *Salomons.*] What is the number of signatures to the Pimlico petition?—Six hundred and two.

63. Those you counted?—Yes.

64. That is your handwriting?—Yes.

65. *Chairman.*] Just select the petition from the City which you called Mr. Bull's attention to?—There are several from the City. This is the one which attracted my notice from the similarity of the writing.

66. You counted that one?—Yes.

67. That is your handwriting upon it?—Yes.

68. What are the names of the Members who presented those petitions?—Sir John Shelley presented the Westminster petition.

69. Who presented the petition from Pimlico?—Mr. Waldegrave-Leslie.

70. Who presented the petition from the City?—Mr. Crawford.

71. You counted all those petitions?—Yes.

72. Alderman *Salomons.*] Was your attention drawn to the similarity of the signatures?—Yes; they are all in a very similar handwriting.

Mr. *Charles Cross Davenport,* called in; and Examined.

Mr. *C. C. Davenport.*

73. *Chairman.*] ARE you a Parliamentary Agent?—I am managing clerk in the office of Messrs. Pritt and Co., where I have been upwards of 27 years.

74. Is there any other person of the name of Davenport besides you in that office?—None other.

75. Just take the petition from Westminster into your hand?—I find in this petition, among other signatures, the name of "William Devonport (Pritt & Co), Great George-street."

76. Did you sign any petition respecting the claims of Azeem Jah?—I did not.

77. Did you give any person authority to sign for you?—Certainly not.

78. Is that your signature?—This is not my signature.

79. Sir *James Fergusson.*] Is it anything like your signature?—There is some resemblance. The writing of the words "Pritt & Co." is something like mine.

80. Mr. Alderman *Salomons.*] Are there any other names of gentlemen whom you know, in Parliament-street or the neighbourhood, which you have reason to think are not genuine?—I see the name of "Henry Cruse, agent."

81. Agent where?—That is all that is here stated. I know the signature of Mr. Henry Cruse. I have seen him write, and I believe this is not his handwriting.

Charles

Charles Eales, Esq., called in; and Examined.

C. Eales, Esq.

27 March 1865.

82. *Chairman.*] ARE you a Clerk of Committees of this House?—Yes.

83. Where do you reside?—In St. George's-road, Eccleston-square.

84. Mr. *Bonham-Carter.*] Do you see the name of "Charles Eales" written to the petition from Pimlico?—Yes, I do.

85. Did you sign this petition?—No.

86. Did you give any person authority to sign for you?—Certainly not.

87. Is there any residence placed after your name?—No.

88. Are the names preceding and succeeding yours purporting to be those of persons living in St. George's-road?—Yes; the name before mine gives the address of St. George's-road; and the name after mine also gives the address of St. George's-road.

89. Do you know any other gentleman of the name of Eales besides yourself who lives in St. George's-road?—No, there is none other.

90. You know that no other person of that name lives there besides yourself?—I believe there is no other; no second name appears in the "Court Guide." I see the names after mine of a number of persons who live within a door or two of me. Here is one, "Joseph Wood, 49, St. George's-road." I know there is a person of that name living at that address.

91. Mr. Alderman *Salomons.*] Are you acquainted with the names of any persons whose names purport to be signed to those petitions?—I am acquainted with Mr. Burnett, whose name stands next to mine; he formerly lived at No. 47, St. George's-road, but has lately removed to another address.

92. *Chairman.*] Just take the street guide of the Post Office Directory. Does any other person of the name of Charles Eales, besides yourself, appear there as residing in St. George's-road?—No.

93. Mr. *Hastings Russell.*] Is any attempt made at imitating your signature?—I think there is, but it is a very bad attempt.

Henry Stone Smith, Esq., called in; and Examined.

H. S. Smith, Esq.

94. *Chairman.*] WHAT are you?—I am Chief Clerk in the Parliament Office of the House of Lords.

95. Do you live in Smith-square?—Yes.

96. Will you take the petition from the inhabitants of the City of Westminster in your hand. Allow me to call your attention to the second name on that petition, "Henry Stone Smith"?—The second signature, purporting to be the signature of "Henry Stone Smith, of Smith-square," is not my handwriting.

97. Did you sign that petition?—No.

98. Is that signature in your handwriting?—It is not.

99. Did you give any person authority to sign such a petition for you?—Certainly not.

100. Is Smith-square your residence?—Yes.

101. Mr. Alderman *Salomons.*] Have you signed any similar petition respecting the claims of Azeem Jah?—No.

102. Is your handwriting imitated?—No; I never made such an "S" as that in all my life.

Martis, 28° *die Martii*, 1865.

MEMBERS PRESENT:

Mr. Bonham-Carter.	Mr. Hennessy.
Mr. Cox.	Sir FitzRoy Kelly.
Sir James Fergusson.	Mr. Taverner John Miller.
Mr. Charles Forster.	Mr. Alderman Salomons.
Major Gavin.	Mr. Owen Stanley.

CHARLES FORSTER, Esq., IN THE CHAIR.

The Rev. *John Jennings*, M.A., called in; and Examined.

Rev. *J. Jennings*, M.A.

28 March 1865.

103. YOU are a Canon of Westminster and Rector of the parish of St. John's, Westminster?—I am.

104. Does your name purport to be signed to the Westminster petition respecting the claims of Azeem Jah?—This petition is signed, "Rev. John Jennings, M.A., Rectory."

105. Did you sign that petition yourself?—Never.

106. Did you give authority to any person to sign it for you?—Never.

107. Mr. Alderman *Salomons*.] I suppose when you do sign your name, you do not sign "Rev. John Jennings"?—Never, when I sign myself.

108. Do you recognise that as being anything like your handwriting?—The two "J's" are not very unlike, but the "s" stamps it at once as not being my handwriting. I never wrote an "s" like this in my life.

109. Sir *FitzRoy Kelly*.] Is there any such resemblance as to lead you to believe that this is an intended imitation of your handwriting; does it look as if it were an attempt to imitate your handwriting?—I think the handwriting is such that a person who is perhaps not intimately acquainted with my handwriting might have mistaken it for my handwriting from the appearance of some of the letters.

110. Is it something like the style in which you write?—It is not unlike it. My bankers would not pay a cheque with this signature.

111. Mr. *Cox*.] Have you any reason to believe that it is intended to be an imitation of your signature?—That of course I could not tell, but pains have been taken to make the "J's" very much like mine.

112. Sir *FitzRoy Kelly*.] Does it appear naturally and apparently genuine, or is it an intended imitation in a feigned hand?—Yes; as far as my own impression goes it is intended to imitate my handwriting as closely as can be done.

John Richard Lambert Walmisley, Esq., called in; and Examined.

J. R. L. Walmisley Esq.

113. *Chairman*.] ARE you a Parliamentary Agent?—I am a Parliamentary Agent and Solicitor.

114. Where do you reside?—My office is at No. 5, Victoria-street, Westminster Abbey.

115. I observe what purports to be your signature on the Westminster petition, relating to the claims of Azeem Jah; just take the petition into your hand; did you sign that petition?—I did not.

116. Is that your handwriting?—It is not.

117. Did

J. R. L. Walmisley, Esq.

28 March 1865.

117. Did you give any person authority to sign this petition for you?—Never.

118. Mr. Alderman *Salomons.*] Is your handwriting at all like that?—Not in the slightest degree.

119. Mr. *Bonham Carter.*] Is there any other Parliamentary Agent of the same name as yourself?—Of the same name, but not the same initials: a cousin of mine is a Parliamentary Agent, but from my knowledge of his handwriting for many years, I can state that that is not his signature.

120. *Chairman.*] His are not the same initials?—No.

121. You are "J. R. Walmisley?"—I am John Richard Lambert Walmisley. As a Parliamentary Agent, I sign my name John R. L. Walmisley; and as a solicitor I sign it John.

William Cox, Esq., a Member of the Committee; Examined.

W. Cox, Esq., M.P.

122. *Chairman.*] I BELIEVE you presented three petitions to the House, relating to the claims of Azeem Jah?—I did.

123. From where?—From Barnsbury, Islington, and Finsbury.

124. Do you know from whom you received them?—Yes; I received a letter, dated "Adelphi-terrace" or "Adelphi-place," from a gentleman of the name of Strutt.

125. Sir *FitzRoy Kelly.*] You received those petitions together with a letter from Mr. Strutt?—Yes.

126. Mr. Alderman *Salomons.*] Asking you to present those petitions?—Yes.

127. Sir *FitzRoy Kelly.*] Do you hold those petitions in your hand?—I hold one of those petitions in my hand.

128. Which is that?—The petition from Islington.

129. *Chairman.*] That is a petition relating to the claims of Azeem Jah?—Yes; there are several signatures to this petition which I verily believe not to be in the handwriting of the persons who purport to have signed them: the first is "Francis Collingwood, butcher, Upper-street, Islington;" "John Comfort," also of Upper-street, Islington, upholsterer; "John Riley, surgeon, Pullen's-row."

130. Mr. *Bonham-Carter.*] Do those names occur low down in the petition?—Yes, they do.

131. Your attention to the fact that they might have been forgeries, would not naturally have been called to them?—I did not look at them critically to ascertain whether the signatures were in the handwriting of persons whom I knew. This I looked upon as being as genuine a petition as ever I presented on the face of it.

132. Mr. Alderman *Salomons.*] Do you know any of the names on the upper sheet, so as to be able to say whether they are forgeries or not?—Take the first name on the petition, "James Ockmore, fishmonger, High-street, Islington." I should say that is not his signature.

133. Sir *FitzRoy Kelly.*] With regard to the three signatures which you have spoken of, are you well acquainted with the handwriting of those three persons?—I will not say well acquainted. I am sufficiently acquainted to be able to say that I verily believe that that is not their handwriting.

134. You are sufficiently acquainted with their signatures to enable you to say that?—I am. The third signature is "George Turnham, Phillarmonic Hall." I believe that not to be that man's signature, although, if I ever saw him write, it is five or six years ago.

135. Mr. *Hennessy.*] Are those three names apparently in the same handwriting?—No.

136. Have you had any communication with either of those three persons?—None whatever.

137. You cannot say, then, that these names have been written to that petition without their consent?—Indeed, I cannot.

138. Mr. *Miller.*] You have spoken of three or four signatures which you believe to be forgeries. What is the entire number of signatures attached to that petition?—Eight hundred and eighteen. That is the number which I find in the memorandum at the top of it.

W. Cox, Esq., M.P.

28 March 1865.

139. Mr. *Hennessy*.] Whose is the first signature to the petition?—"James Ockmore, fishmonger, High-street, Islington."

140. What is the second signature?—"Thomas W. Marshall, tobacconist, ditto," that is, High-street, Islington.

141. Can you give the Committee any information as to whether those are genuine or otherwise?—I do not know at all, except this, that I know there is such a person of the name of Ockmore. I do not know whether there is a person of the name of Marshall. I know George Turnham, of the Philharmonic Hall, whose signature purports to be to this petition, but which I believe to be fictitious.

The Honourable *George Waldegrave-Leslie*, a Member of the House; Examined.

Hon. *G. W. Leslie*, M.P.

142. *Chairman*.] DID you present any petitions to the House relating to the claims of Azeem Jah?—I presented a petition from Pimlico.

143. Have you got it in your hand?—Yes.

144. Is that the petition which you presented?—Yes.

145. Can you state from whom you received that petition?—It was given to me by the messenger, of the cloak-room.

146. Mr. Alderman *Salomons*.] Did you receive any letter asking you to present that petition?—No.

147. It was handed to you by the messenger in the cloak-room, and you presented it?—Yes.

148. You do not know from your own knowledge whether the signatures are authentic or not?—No, I do not. I saw the names of some persons whom I know, such as that of Mr. Charles, the fishmonger.

149. Have you ascertained from Mr. Charles whether that is his signature?—No, I have not. I am not a customer of his; and I am not acquainted with his signature.

150. Mr. *Miller*.] Can you assign any reason for that petition being sent to you?—No, I cannot. It was addressed, "Mr. W. Leslie," outside.

William Ginger, Esq., called in; and further Examined.

W. Ginger, Esq.

151. *Chairman*.] JUST look at the Pimlico petition. Does that petition purport to be signed by you?—My name is attached to it.

152. It purports to be signed by you?—Yes.

153. Do you reside in Pimlico?—Yes.

154. Where?—Denbigh-street.

155. Mr. Alderman *Salomons*.] How is it signed there?—"William Ginger."

156. Where?—There is no residence; but it comes under the head of the Denbigh-street signatures without "ditto."

157. Did you sign that petition?—No.

158. Did you give any person authority to sign for you?—No.

159. You know nothing about the signature?—No.

160. Does it resemble your handwriting?—Not in the least.

161. Mr. *Hennessy*.] Is there any other William Ginger living in Denbigh-street?—Not that I am aware of.

162. There is no person of your family of the same name?—No.

163. Not William?—No.

164. Do you know anything of the gentlemen who live close to you in the same street, whose names are apparently attached to this petition?—I know something of Mr. Jennings, the surgeon.

165. What is his Christian name?—I rather think it is John, but I cannot be certain.

166. Do you know his handwriting?—No.

167. Do you know the handwriting of Mr. "Nicholls, architect"?—No; I am not acquainted with many people in the neighbourhood.

168-9. Mr. *Cox*.] Do you know the handwriting of any others?—There is the signature of a person of the name of Thorpe, which I know to be fictitious. Mr. Thorpe is a person living in Denbigh-place; he is a tea dealer. I asked him whether he signed the Pimlico petition, and he said he had not. *W. Ginger*, Esq. 28 March 1865.

Mr. *William Daniel Hawes*, called in; and Examined.

170. *Chairman.*] I BELIEVE you are employed in the Journal Office of the House of Commons?—I am. Mr. *W. D. Hawes.*

171. Just look at the petition from Pimlico relating to the claims of Azeem Jah; does your name purport to appear as signed to that petition?—My name is here.

172. Did you sign it?—Certainly not.

173. Did you give any person authority to sign for you?—Certainly not; I never signed but one petition in my life.

174. Does that appear to resemble your handwriting?—Not at all; it is totally different.

Mr. *John Strutt*, called in; and Examined.

175. *Chairman.*] WHAT is your name?—John. Mr. *John Strutt.*

176. Have you any other Christian name?—No.

177. What are you?—A Solicitor and Parliamentary Agent.

178. Where do you reside?—2, Adelphi-terrace.

179. I hope you will not misunderstand me in giving you the formal caution that you are not bound to criminate yourself. It is not the intention of the Committee to throw any imputation upon you by so doing; it is, however, necessary, as a matter of form, that I should give you that caution. I now ask you this question: did you act as agent for Prince Azeem Jah in the matter of petitions presented to Parliament in respect of his claim?—Not directly from the prince, but from a gentleman who was sent over from Madras, who represented the prince in this country.

180. Then I may take it that you did act as agent for the Prince Azeem Jah, by the authority of some person?—Decidedly I did.

181. In sending petitions to Parliament?—I must not go by wholesale, in that way, because other parties were acting as well as myself in getting up petitions.

182. The question I asked you was, whether you acted as agent in getting up petitions to Parliament?—In getting up petitions to Parliament.

183. Will you give the name of the gentleman from whom you received your authority?—That I received my authority from?

184. Sir *FitzRoy Kelly.*] You have said you received your authority through some gentleman; just state his name?—I received my authority, in the first instance, through a native gentleman named Pooroo-shutum. He is not in England now, but he is expected every day.

185. Did you receive authority from anybody else?—Since Pooroo-shutum went away, another gentleman who came over from India to represent the prince also instructed me as agent; the name of that gentleman is Mr. Emerson Dawson.

186. Mr. *Miller.*] Will you give me the address of Mr. Dawson?—I think he belongs to the Colonial, or the East India Club. I think Mr. Dawson's private residence is No. 7, Wellington-road, St. John's Wood.

187. *Chairman.*] Did you submit certain petitions to Parliament respecting the claims of Azeem Jah for presentation to the House of Commons?—I did.

188. Can you give the Committee any idea of the number of those petitions which you sent?—Do you mean during this Session?

189. During the present Session?—I should think, altogether, petitions to the number of 120, to my knowledge, were obtained.

190. Sir *FitzRoy Kelly.*] Be good enough to attend to the question. You were asked, not as to the number that were obtained, but as to the number that you yourself sent to Members of Parliament for presentation?—Perhaps 50 or 60.

Mr. *John Strutt.*

28 March 1865.

191. Mr. *Bonham-Carter.*] Were those petitions drawn up in your office?—Oh, no; some of them were drawn up by the agents who were employed to get up these petitions.

192. *Chairman.*] Just take the Pimlico and Westminster petitions respecting the claims of Azeem Jah in your hand?—They were not drawn up in my office. This is the Westminster petition.

193. Did you submit that petition to any Member of the House?—No; I did not.

194. Just read the address on the back?—"Sir John Shelley, Bart., M.P."

195. Do you know the handwriting of that address?—I should not like to swear to it, but I believe I know it.

196. Sir *FitzRoy Kelly.*] You are only asked to speak to the best of your belief?—To the best of my belief it is in the handwriting of a person named Mitchell.

197. *Chairman.*] Who is Mr. Mitchell?—Mr. Mitchell was introduced to me as a clerk in the Petition Office of the House of Commons.

198. Where is he now?—I understood that, until very lately, he was still a clerk in the House of Commons. He also carried on the business of an agent for the purpose of getting up petitions, and transacting matters of that kind.

199. Can you give his residence?—I have some letters of his here.

200. Sir *FitzRoy Kelly.*] Is his address contained in any of them?—"79, Cannon-street, city," is one address. Another is, "Upper Charles-street, Parliament-street."

201. Is there any number?—There is no number upon the seal, but it is called "Mitchell's Parliamentary Dispatch and Agency Office, Upper Charles-street, Parliament street."

202. Mr. *Cox.*] Can you give his Christian name?—He signs his name "Geo. M. Mitchell," to all the receipts for payments which I have made him from time to time.

203. *Chairman.*] Did you employ Mitchell in getting signatures to these petitions?—I employed Mitchell as the agent to get up petitions, with about 20 other agents.

204. You mean to get up petitions relating to the claims of Azeem Jah?—Yes.

205. Can you state what petitions you employed him to get up?—I employed Mitchell to get up a number of petitions in the metropolitan districts.

206. Did you employ him with regard to the Westminster petition?—No; he made out a list of the places where he had got most interest, and where he thought he could be most successful in getting up these petitions.

207. Have you that list?—I have not the list, but I can tell you all the petitions, because I have got the receipts for payments which I made for those petitions. Here is the first receipt, "Received of John Strutt, Esq., the sum of 8 *l.* 12 *s.* 4*d.*" That is for the Westminster and City petitions.

208. Before you read any more of those receipts I will just ask you this question. On what terms did you employ Mitchell?—He was a perfect stranger to me, when I met him. I did as other agents do in getting up petitions.

209. Did you pay him so much per day?—I paid him according to the number of signatures he procured. I have two receipts from Westminster; here is one, 732 signatures 3 *l.* 1 *s.*

210. Sir *FitzRoy Kelly.*] Did you make any previous arrangement with him?—I made an arrangement with him, that he should have 1 *d.* for every signature to the petitions that he brought to me.

211. Mr. Alderman *Salomons.*] You paid him at that rate for them?—Yes.

212. Sir *FitzRoy Kelly.*] Will you now proceed to state what petitions he charged you for, and what were the number of signatures which you paid him for?—I will read over the receipts and that will give you the list. This is a receipt for the Westminster petition. He states the number of signatures to be 732, for which he charges 3 *l.* 1 *s.* Then there is the City petition, number of signatures 568; 2 *l.* 7 *s.* 4 *d.* I was asked the question just now, as to whether this was prepared in my office. He charges "24 Engrossed Petitions 1 *l.* 4 *s.*; cash paid for paper 2 *l.*" That makes a total of 8 *l.* 12 *s.* 4 *d.* That is signed "Geo. M. Mitchell, 16 February 1865." That is one account.

213. *Chairman.*]

213. *Chairman.*] That is for the Westminster and City Petitions?—Yes. Then the next is, "Paddington petition, number of signatures 766, 3 *l.* 3 *s.* 10 *d.*" Then at the foot there is, "Received, January 21, 1864, Geo. M. Mitchell." These are my receipts. The next is, "Islington petition, signatures 820; 3 *l.* 8 *s.* 4 *d.*; Barnsbury, signatures 702; 2 *l.* 18 *s.* 6 *d.*; Holloway, signatures 676; 2 *l.* 16 *s.* 4 *d.*" Total 9 *l.* 3 *s.* 2 *d.* "Received by cheque, January 7th, 1865, 5 *l.* 5 *s.*; received by cheque January 9th, 1865, 3 *l.* 18 *s.* 2 *d.*," making together 9 *l.* 3 *s.* 2 *d.* "Received, Geo. M. Mitchell." The next is "Country petitions, London, February 11th, 1865. Received of John Strutt, Esq. the sum of, for Stratford petition, 480 signatures, and Leyton, &c. ditto 141 signatures, 3 *l.* 12 *s.* 3 *d.* Received 11th February 1865." The next is, "London, February 27th, 1865. Received of John Strutt, Esq., the sum of 1 *l.* 4 *s.* 9 *d.*; for Rochester petition (signatures 297) 1 *l.* 4 *s.* 9 *d.* Geo. M. Mitchell." That petition was not sent in, for I kept that for certain reasons. The next is, "London, February 8th, 1865. Received of John Strutt, Esq., the sum of, for Westminster petition, 690 signatures, 2 *l.* 17 *s.* 6 *d.*;" this was another Westminster petition; "and Romford petition, 114 signatures, 1 *l.*, making a total of 3 *l.* 17 *s.* 6 *d.* 7th February, Geo. M. Mitchell."

214. Sir *FitzRoy Kelly.*] That is another Westminster petition?—There are two or three petitions from Westminster.

215. Each of these were separate petitions?—These were separate petitions.

216. Mr. *Cox.*] Did you check the counting?—No, I did not do that, because I had a great number of these petitions, and Mr. Mitchell saved me the trouble, for he put upon each petition the number of signatures, and he vouched for their honesty, and I gave him a cheque for the amount. The next is, "Petition from Bethnal Green, 380 signatures, 1 *l.* 11 *s.* 8 *d.*; Petition from St. John's, Hackney, 1,073 signatures, 4 *l.* 9 *s.* 5 *d.*," making a total of 6 *l.* 1 *s.* 1 *d.* Received, on account, 1 *l.*; balance, 5 *l.* 1 *s.* 1 *d.* Received the amount, Geo. M. Mitchell. 3d January, 1865." The next is, "Received of John Strutt, Esq., the sum of 4 *l.* 1 *s.* 8 *d.* for Pimlico petition" (signed) "Geo. M. Mitchell."

217. How many signatures?—He has not put the number of signatures, so I suppose he has put them on the top, 506.

218. *Chairman.*] Looking very carefully at the Pimlico petition, are you enabled to identify that petition as a petition for which you made him a payment?—I am not able to identify any of these petitions; but to the best of my belief that is one of the petitions which he sent me as coming from Pimlico, and which I paid him for.

219. Sir *FitzRoy Kelly.*] Is there any name at the back in any handwriting?—This handwriting appears to me to be in the handwriting of persons in the Houses of Parliament.

220. Is there any direction?—There is something struck out here, "The Honourable George W. Leslie."

221. Mr. *Cox.*] Whose writing is that?—It looks to me like Mitchell's.

222. Sir *FitzRoy Kelly.*] Look very carefully at that, and say whether you believe that to be Mitchell's handwriting?—It is marked through; I should not like to swear that it was.

223. What do you think, speaking to the best of your belief?—I believe it is.

224. Are you well acquainted with the character of his handwriting?—I have seen him write, because he has been constantly writing these receipts.

225. Have you seen enough of his writing to become well acquainted with its character?—Yes, I think I have.

226. Have you never doubted that that is his handwriting?—I do believe that that is in his handwriting.

227. *Chairman.*] You have stated that you paid Mitchell for stationery and preparing petitions. Just look at that Pimlico petition?—I believe that is one.

228. Is that in his handwriting?—I do not know; I will not swear that this is Mitchell's handwriting, but I believe that is one of the petitions that Mitchell got up.

229. Mr. Alderman *Salomons.*] The petition itself was prepared in your office, I suppose?—No, it was not; I have stated several times that none of the petitions which Mitchell got up were prepared in my office.

Mr. *John Strutt*.

28 March 1865.

230. Mr. *Cox.*] Not even the draft?—Not even the draft. Those petitions were taken from a printed form which was in existence before I was concerned in any way in getting up these petitions.

231. Just take the Pimlico petition. You see 506 marked as the number of signatures?—He has charged for 506.

232. What would 506 come to at a penny each signature?—£.2 2*s*. 2*d*. It says here "Received of John Strutt, Esq., the sum of 4*l*. 1*s*. 8*d*., for Pimlico petition." I think that he must have put something else into this.

233. Sir *FitzRoy Kelly.*] Are you charged in any of these receipts for more than one Pimlico petition?—I have got a number of others here.

234. Just cast your eye through them and then say, besides the one you have spoken to, whether there is any other Pimlico petition which you are charged with?—I find no other.

235. Having looked out all the accounts which you have received from Mitchell and paid him, you find a record of but one Pimlico petition?—These are papers which I selected early this morning. I was last night served with a summons to attend, and I did not know what might be required. I have had very little time to look through the papers; I might find one or two others.

236. It is possible, then, that you may have been charged for another Pimlico petition?—Yes.

237. Having looked at the Pimlico petition, have you any doubt that that petition emanated from Mitchell?—I believe it did. I cannot say that it did, but I have not the slightest doubt that it did.

238. *Chairman.*] Can you give the entire amount which you paid to Mr. Mitchell with respect to these petitions?—I have not added the sums up. I have got two or three more receipts which I have not read over yet, and when I have done so, it will be easy to add up the amounts. I may have one or two others.

239. Will you look at the signature, "William D. Hawes" to the Pimlico petition? Have you any reason to believe in whose handwriting the signature of "William D. Hawes" is?—I knew nothing about it. I have not the most distant idea of whose handwriting it is in.

240. Sir *FitzRoy Kelly.*] Does it look like Mitchell's?—I have seen two handwritings more unlike than this, but I could not swear to it.

241. You are not asked to swear to it. Do attend to the form of the question. You have stated that you are well acquainted with the character of Mitchell's handwriting. Look carefully at that signature of the name of "Hawes," and state whether you have any belief, or can form any judgment, one way or the other, as to whether that is in Mitchell's handwriting. Do not appeal to anybody else, but exercise your own judgment. From your knowledge of the character of Mitchell's handwriting (and you have apparently some of his handwriting in your hand), do you see any resemblance so as to enable you to form a belief one way or the other?—Well, I should not like to swear.

242. You are not sworn; you are only asked to speak to your actual belief. Do you see any sufficient resemblance to his handwriting to enable you to form a belief one way or the other?—I should not like to swear to it. I would not swear to it on any account.

243. The next signature is, "Charles Eales"?—That does not look so much like Mitchell's writing.

244. Then there is "William Ginger"?—No; I do not see any reason to compare this handwriting with that. This (*referring to a letter which the Witness held in his hand*) is Mitchell's own handwriting.

245. Sir *FitzRoy Kelly.*] Then you do not see a sufficient resemblance to induce you to think that they are in his handwriting?—No.

246. Sir *James Fergusson.*] Do you think that the signatures resemble Mr. Mitchell's ordinary writing?—Not comparing it with this letter, which is the only inducement to make me swear to Mitchell's handwriting.

247. But do you think that it is not so wholly dissimilar as to make you say, in your judgment, that it might not be written by him?—Decidedly not.

248. *Chairman.*] Now, take the Westminster petition respecting the claims of Azeem Jah in your hand; is there any address upon the Westminster petition?—I believe that is Mitchell's handwriting. I think that the signature of "J. Wyld," the Member who presented the petition, is Mitchell's handwriting; I will

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will tell you why. I think that that handwriting is as much like Mitchell's as anything I have seen, and the one on the back is not like Mitchell's.

249. Sir *FitzRoy Kelly.*] Whose handwriting is that?—I never saw two handwritings, in my opinion, more alike than Mr. Wyld's and Mitchell's.

250. Which is the petition which you have in your hand?—This is the Westminster petition.

251. Who is it presented by?—Sir John Shelley. If you remember, I stated that this was as much like Mitchell's as anything that I have seen.

252. Do you believe that that is his handwriting?—I do.

253. What is it that you believe to be his handwriting?—"Sir John Shelley, Bart., M. P."

254. Then, do you believe the address, "Sir John Shelley, Bart., M. P." to be in Mitchell's handwriting?—I do.

255. *Chairman.*] How many signatures purport to be affixed to this petition?—Three hundred and ninety-two.

256. Does your receipt for that correspond with those numbers?—He has charged for the Westminster petition, 690 signatures, 2 *l.* 17 *s.* 6 *d.*; and there is another Westminster petition, for which he has charged 732 signatures, 3 *l.* 1 *s.*

257. Is there a third?—I think there was a third signed, by some other people.

258. You have only the two Westminster petitions, the signatures to which were obtained by Mitchell?—I believe that is so.

259. Just look at the first name upon that petition?—"John R. Walmisley, Parliamentary agent."

260. Have you any belief as to the handwriting of Mr. Walmisley?—I do not know his handwriting.

261. You are asked if you know the handwriting of that signature?—Do you mean whether I know that that is Mitchell's?

262. Yes?—It looks a great deal like it.

263. Sir *FitzRoy Kelly.*] The handwriting resembles Mitchell's?—Yes.

264. What is the next name?—"Henry Stone Smith."

265. Have you any belief as to that being in Mitchell's handwriting or not?—I am not a man that understands handwriting in that way.

266. Have you any belief upon the subject?—I do not think I should be called upon to answer. I do not like saying that it is, and I do not like saying that it is not; but if you ask me my opinion as to these petitions, which I have never seen before, as I have to-day, I should say that there are not more than two or three handwritings in the petitions. I will not go and screen Mitchell, or anybody else.

267. You have given your evidence very fairly, and it is quite right that you should give it with great caution?—I feel this; I feel that I have been robbed by means of these petitions, which I have paid for. I have been swindled out of the money.

268. Do you say the whole of these signatures appear to be in two or three handwritings, and no more; can you form any belief as to whose handwriting any one or more of them is in; and if so, give the name of the person?—I believe conscientiously, that Mitchell is the party who has signed an immense number of these signatures.

269. In the petition before you?—In this and the others that have been before me to-day.

270. *Chairman.*] Just look at the signature, "Rev. John Jennings," in the Westminster petition?—The "Rev. John Jennings" is exactly like the second signature in this petition.

271. In whose handwriting is that?—I have said that I do not like to swear it is Mitchell's, but all the signatures are a great deal like his.

272. Mr. *Cox.*] Now, will you read the other receipts?—"Received of Edward Strutt, Esq., the sum of 3 *l.* 12 *s.* 4 *d.* for City petition with 868 signatures, 25 January 1865. Geo. M. Mitchell." The name "Edward Strutt" is a mistake. The next is "14 January. Finsbury petition, signatures 544; 2 *l.* 5 *s.* 4 *d.*" "January 16. Marylebone petition, signatures, 624; 2 *l.* 12 *s.*," making a total of 4 *l.* 17 *s.* 4 *d.* "Received, Geo. M. Mitchell. 16 January 1865." The next is "4 February 1865. Received of John Strutt, Esq., the sum of 2 *l.*

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2 *l.* 15 *s.* for City petition, 660 signatures. 2 *l.* 15 *s.* Geo. M. Mitchell." That is the second City petition. That is all.

273. Do you identify the endorsement on the Finsbury petition?—Yes.

274. Whose handwriting is that?—Mitchell's. I do not hesitate to swear to that.

275. Do you identify the endorsement on the Islington petition?—It resembles Mitchell's. I have no hesitation in saying that all the petitions which Mitchell has sent in are bad ones.

276. Do you believe this to be one of the petitions sent in by Mitchell?—I do; I swear that I believe that every petition which Mitchell has got up and sent into Parliament is fraudulent, and that he has done it to extort money out of me.

277. Do you identify the endorsement on the petition from Marylebone and its neighbourhood?—I believe that is Mitchell's.

278. Do you identify the endorsement on the petition from Bethnal Green?—Yes; there is no mistake about that being Mitchell's.

279. Do you identify the endorsement on the petition from Holloway?—That is Mitchell's too.

280. What do you say as to the endorsement on the petition from Holborn?—This is not Mitchell's. I vouch for the honesty of this petition. I will defy any Committee to prove that that is not an honest petition.

281. Who got up the Holborn petition?—That petition was got up by one of the trades societies' secretaries, a man who is as well known in this metropolis as the Queen, Mr. Potter; he is secretary to the trades' societies.

282. *Chairman.*] You have stated that you employed 20 agents; at present you have only given the name of Mitchell. Can you give the Committee the names of any other of your agents?—Mr. Potter. I do not think I should give the names of these gentlemen who came forward to get up these other petitions. I do not hesitate to give Mitchell's name, because I consider that he has grossly deceived me and everybody. I do not hesitate to come forward here and express what I feel upon it; but many of the petitions which were sent in were as *bonâ fide* and honest petitions as were ever presented to Parliament.

283. The Committee do not cast any imputation upon any of these other gentlemen who acted as your agents; they merely want their names?—Mr. Potter is one. As I said before, Mr. Potter has got up an immense number of these petitions.

284. Mr. *Cox.*] You mean Mr. George Potter?—Yes.

285. *Chairman.*] I merely want the names of your paid agents. Was he a paid agent?—I made him a present; I do not think that the Committee should call upon me for those names.

286. Sir *FitzRoy Kelly.*] There is no imputation upon these gentlemen in the slightest degree. We only wish to know the names of any other paid agents whom you have employed?—I can give them all. There was a gentleman at Ipswich.

287. Who was that?—Mr. Goodwin; he is a respectable man. He got up a petition; I do not see it upon this list. Then there is Mr. Barnes, a solicitor, at Harwich. The editor and proprietor of one of the Colchester newspapers is another. The editor and proprietor of one of the first papers in Scotland, a Mr. Rowby, of the "Caledonian Mercury," is another; that is a very large petition. Then there is a gentleman who was secretary to the Chamber of Commerce at Bristol.

288. *Chairman.*] Have you not a list?—I am giving it from memory. I should have come better prepared if it were not that you gave me so little notice.

289. Mr. *Owen Stanley.*] Did you pay these other agents in the same way that you paid Mitchell, at the rate of a penny per signature?—Some of them I did, and some not.

290. *Chairman.*] Have you any other names that you can add to the list of your agents?—Mr. Barry, one of the very respectable men in St. Pancras, got up another petition at St. Pancras, not one that Mitchell presented. I must beg to tell you that there was a petition which came from a number of young men's Societies in Holborn, got up in the large houses of Howitt's, the linendrapers', and Day and Martin's, signed by all the people connected with those establishments. Then there was another petition got up by the tradespeople, medical men,

men, and others of Clerkenwell. They were all paid something; some of them were paid according to the number of signatures they got, and some what I chose to give them. Then there was a petition from Devonport, which was a very good petition. That my son went down for, and got up; and he also got one up at Plymouth, signed by the mayor, magistrates, and responsible people there.

291. *Chairman.*] Do you think you could put in a complete list to-morrow?—I think that I should not be called upon to give that. I have given them to you as well as I can, but gentlemen who are at the head of large newspaper establishments do not like the idea of it.

(*The Witness ultimately consented to produce a complete list of his paid agents, and also a list of the petitions they furnished him with, at the meeting of the Committee on Friday next.*)

292. Mr. *Owen Stanley.*] I think you signed one petition yourself, did you not?—I did.

293. To whom was that petition sent?—I think it was sent to Mr. Wyld.

294. Where did that purport to come from?—From St. Martin's-in-the-Fields. It was a petition which I got up amongst my friends. It laid for signature at my office part of the time, and it was signed by the respectable inhabitants of Adelphi-terrace, and the tradespeople of the neighbourhood; and I believe every one understood what thay were signing.

295. Sir *FitzRoy Kelly.*] You likewise sent a petition, did you not, to Mr. Cox for presentation?—I think I wrote to Mr. Cox to ask him to present a petition, and I think that was a petition which came from the neighbourhood of Barnsbury, from some of his constituents. That petition was got up by a highly respectable man whose name I will give in the list.

296. I think you have stated that you consider almost all the petitions which Mitchell got up for you to be fraudulent?—I do; I firmly believe it.

297. You have likewise stated that you had employed a great many other agents. Do you wish to convey to the Committee that all the petitions got up by those other agents are, to the best of your belief, *bonâ fide* petitions?—I believe they are all thoroughly honest and *bonâ fide.*

298. Sir *James Fergusson.*] Of course, you had no suspicion until your attention was called by the appointment of this Committee to the nature of the petitions got up by Mitchell, that he had not acted towards you in as honest a manner as your other agents?—Just before the motion came on in the House, I suspected Mitchell, and I charged him with dishonesty and fraud, and I told him that I would have nothing whatever to do with him, and that he should not come near me again until such time as he had satisfied me that those petitions were strictly honest. The motion came on the next day. The honourable Chairman made some observations in the House upon the subject of these petitions. The next day Mitchell had the assurance to come to me, and ask me for payment of the balance of the account for these fraudulent petitions, and I desired him to go out of the house. I said, "If you have got any ground to prove to me that they are honest, satisfy me by going down to Mr. Forster; and if you go down and satisfy him, I will pay you; but if you do not, I will have nothing to do with you." I got a letter from him, saying that he had been down, and seen Mr. Forster.

299. Sir *FitzRoy Kelly.*] Have you that letter with you?—Yes.

300. Read that letter?—"78, Cannon-street, March 17th, 1865.—Sir, I am much surprised at your note of yesterday, and your refusal to see me. I saw Mr. Forster yesterday morning, at your request, who regretted he had taken any steps in the matter, but was bound under a promise to present a special report. I took the *onus* entirely upon myself, and offered to attend the Committee that met yesterday. Your name was not mentioned in the matter. I am satisfied that if it had not been for my perseverance that the majority in the case of Azeem Jah would have been a larger one in favour of the Government. I therefore think the accusation made in your note of yesterday an unjust one." [That was charging him with delinquency.] "Everything respecting the petitions is now at an end. I therefore request a cheque for the balance due to me for my attendances, by bearer; or, if not, to make an appointment for some time to-day.—Yours truly, Geo. M. Mitchell. P.S. I deny having any knowledge as to any of the signatures in either of the petitions not being genuine. J. Strutt, Esq." The next day I got a letter from Mr. Mitchell's solicitor, demanding payment of the balance.

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301. Sir *James Fergusson.*] You have no objection to furnish the Committee with a complete list of the paid agents you have employed to procure these petitions, and, as far as you can, the petitions they furnished to you?—Not the slightest. I will give you the list, but I give it because you wish for it. I do not think I shall please those gentlemen, because some of them are men of position, and do not like their names to be put forward as agents. I will give you any list or any information as far as I am concerned.

302. Mr. *Owen Stanley.*] Did you ever employ Mitchell before?—I never employed him before; I never knew him before.

303. Sir *FitzRoy Kelly.*]—At the time that you employed Mitchell, and until the period that you have referred to, had you any reason to suspect that he was resorting to improper means to procure the signatures to these petitions?—I had every reason to suppose when I was introduced to him that he was a highly respectable man, that he was holding a situation under Government, and that he was, in fact, the best man I could employ to get up these petitions. He was an intelligent man, and he went amongst people, and understood what he was about. I thought he was a very proper man to act in the capacity in which I employed him.

304. During how long a period have you acted as agent to Azeem Jah?—It is going on for three years.

305. Not exceeding three years?—I think that is about the time that we first commenced to apply to Parliament respecting him.

306. Sir *James Fergusson.*] What led you to suppose that Mitchell was an official of the House of Commons?—Because he stated so to me when I engaged him, and he stated so to other gentlemen at my office.

307. Mr. *Owen Stanley.*] Mitchell was engaged in getting up these petitions, and he forwarded them to you, did he not?—He forwarded them to me, but afterwards I returned those petitions to him a day or two before the motion came on. I suspected that those petitions were not good. I tested them and tried them. I charged him with having got up these fictitious petitions; I said, "I leave you to be responsible; I will have nothing to do with them; if you are honest, you will get them presented; if you are not honest, you must take the consequences."

308. Do you mean to say you had nothing to do with selecting the Members of Parliament by whom those petitions were presented?—A few of the Members I selected to present the petitions. I wrote to them because I had some personal knowledge of them, which enabled me to ask them to present the petitions which had been got up from such and such places, and some of those petitions were the petitions which Mitchell had got up; but afterwards I would not have anything to do with them, and I handed them over to Mitchell, and Mitchell saw those Members. I suspected that he had not presented them, but I find that he has.

309. Sir *FitzRoy Kelly.*] Were you a party to delivering to any Members of Parliament any petitions which, at the time you delivered them, you had any reason to suspect had been fraudulently prepared or obtained?—Do you mean by Mitchell?

310. At the time that you delivered, or caused to be delivered, any petition to any Member of Parliament, had you any reason to suspect that any such petitions had been improperly procured or that any false signatures were appended to them?—Not the slightest; if I had, I should not have presented them.

311. Mr. *Bonham-Carter.*] Can you state what you have paid Mitchell in all?—I should think, taking it roughly, that I have paid Mitchell something like 60*l.*

Mr. *Frederick George Netherclift,* called in; and Examined.

Mr. *F. G. Netherclift.*

312. *Chairman.*] WHERE do you reside?—17, Mill-st., Conduit-st., Regent-st.

313. What is your profession?—I am a Lithographer, and Facsimilist to the British Museum.

314. Have you been in the habit of comparing signatures?—I have for the last 25 years.

315. Have you compared any of the signatures to the petitions relating to the claim of Azeem Jah?—I have not.

316. Will you be kind enough to do so by the next meeting of the Committee?—I will.

Veneris, 31° *die Martii*, 1865.

MEMBERS PRESENT.

Mr. Bonham-Carter.
Mr. Cox.
Mr. Charles Forster.
Major Gavin.
Sir FitzRoy Kelly.
Sir Colman O'Loghlen.
Mr. Lyall.
Mr. Taverner John Miller.
Mr. Hastings Russell.
Mr. Alderman Salomons.
Mr. Owen Stanley.

CHARLES FORSTER, Esq., IN THE CHAIR.

Mr. *James Poingdestre*, called in; and Examined.

Mr. *J. Poingdestre.*

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317. Sir *FitzRoy Kelly.*] WHAT are you?—Messenger and Summoning Officer of the House.

318. Were you instructed to summon a person of the name of Mitchell to attend before this Committee?—I was; I received a summons signed by the Chairman for the attendance of George Mitchell "forthwith."

319. When did you receive that summons?—I received it on Tuesday, at the last sitting of the Committee.

320. You are one of the summoning officers?—The only one appointed by the Sergeant-at-Arms to do that duty.

321. Do not state what anybody else has done unless you accompanied him, and know the facts of your own knowledge. You received a summons for the attendance of George Mitchell forthwith, and were instructed to proceed upon that summons; did you proceed to do so, or did you employ any one else?—I received a summons from Mr. Stone, the Clerk of the Committee, on Tuesday last, signed by the Chairman, directed to 78, Cannon-street West; I proceeded there, made inquiries, and found that they did not know George Mitchell.

322. It was a summons upon George Mitchell?—It was a summons upon George Mitchell to attend this Committee forthwith.

323. Did you proceed to 78, Cannon-street West yourself?—I did.

324. Did you inquire for him?—I did.

325. What was the answer?—The servant's answer to me was, that they did not know him.

326. Have you any knowledge or information as to whether that was at any time his place of residence?—The only knowledge I have of his address is the address he gave on the petition; he has signed his name and given his address as 78, Cannon-street West.

327. When you went there, did you inquire as to whether he had ever lived there?—They told me they did not know anything about him.

328. Did you see anybody belonging to the house?—I saw the servant belonging to the house.

329. Did you make any further inquiry?—I did not.

330. Did any other person do anything in the matter?—The porter went round and made inquiries the day before in the neighbourhood of Westminster; that is all.

331. Did you, yourself, do anything further?—Nothing more.

332. Have you been there again?—I have not.

333. Then all you have done in obedience to the order that you received is to apply at the house, and there you were informed that they knew nothing about Mitchell?—That is all.

W. H. Coombs.

31 March 1865.

William Henry Coombs, called in; and Examined.

334. Sir *FitzRoy Kelly.*] WHAT are you?—A porter.

335. Belonging to the House of Commons?—Yes.

336. Were you instructed by anybody to do anything with respect to a person of the name of Mitchell?—Yes.

337. From whom did you receive your instructions?—From Mr. Poingdestre.

338. What to do?—To inquire in the neighbourhood of Cannon-row, Westminster, if I could find such a person.

339. What did you do?—I found there was no such number as 78 in Cannon-row.

340. Where did you go to?—I went all up and down the street to see what numbers there were in the street, and there was no such number as that on the paper which I received.

341. What was the highest number?—I think the highest number was about 20.

342. The number on the paper which you received was higher than 20?—Seventy-eight.

343. Have you any reason to suppose that any person of that name lives in Cannon-row?—No; they are principally offices. I looked at all the names on the doorposts, and there is no such name.

344. Is that all you have done?—That is all I have done.

Mr. *James Poingdestre*, called in; and further Examined.

Mr. *J. Poingdestre.*

345. Sir *FitzRoy Kelly.*] DID you not say you went to Cannon-street West?—Yes.

346. That is in the City?—Yes. On referring to the petition which bears George Mitchell's signature, he there describes himself as of 78, Cannon-street West.

347. Cannon-street West is in the City?—Yes.

348. Where you made the inquiry was in Cannon-street West?—Yes.

349. Coombs inquired at Cannon-row, Westminster?—Yes.

350. He was not heard of at either place?—He was not.

Mr. *John Strutt*, called in; and further Examined.

Mr. *J. Strutt.*

351. Sir *FitzRoy Kelly.*] CAN you tell the Committee what was the real address or residence of this man Mitchell?—The place that I sent to when I wanted to find him was 79, Cannon-street West.

352. There are two Cannon streets in the City; Cannon-street and Cannon-street West?—All I know is 79, Cannon-street. I never went after him.

353. Have you addressed any letters there to him?—I am not certain. I have sent messengers. I have sent messages there for him through some of the clerks in the office.

354. What office?—My office.

355. In consequence of any messenger you have sent to that address, has he come?—Yes.

356. No. 79?—No. 79.

357. Did you ever know him at any other address?—I think I have sent to him at his place in Charles-street, Westminster, but personally I have had very little communication with him.

358. You say 79, Cannon-street. He has signed his name to the petition, and described himself as of 78, Cannon-street West, and here is one of his letters to you?—It is 78.

359. Then

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359. Then you were making a mistake when you said 79?—Yes, I made a mistake when I said 79.

360. Are these the only two places that you have ever heard of as his places of resort or residence, that is Upper Charles-street, Parliament-street, which I see upon the seal of the envelope of his letter, and 78, Cannon-street West?—Yes; with the exception of the statement that he made to me that he was a clerk in the Petitions Office of the House of Commons. If I made any communication with him, it has been either at one of those places or the other.

Mr. *James Poingdestre,* called in; and further Examined.

Mr. *J. Poingdestre.*

361. Sir *FitzRoy Kelly.*] THE address given is 78, Cannon-street. We understand there is Cannon-street and Cannon-street West in the City. Which did you go to?—Cannon-street West.

362. Cannon-street West only?—Cannon-street West only.

363. Did you enquire at any other house in the neighbourhood?—I did not. I went according to the address put upon the petition.

364. 78, Cannon-street West?—Yes.

365. They professed to know nothing of him?—The servant told me they did not know the name at all.

366. Mr. *Bonham-Carter.*] Is that house let out in chambers?—There is an Insurance Office underneath, and I went to the private door.

367. Sir *FitzRoy Kelly.*] Have you ever been to Upper Charles-street?—No.

368-9. Have you got the summons that you were to have served him with?—I have.

Mr. *Strutt.*] I understand that he resided in Upper Charles-street, and I understand further that he had four or five clerks. There is another person who perhaps might be able to give some clue to his address. During the time of his coming backwards and forwards to me, he told me that he was getting up some work or other, and that Mr. Effingham Wilson, of the Royal Exchange, was going to bring it out for him. I think it is probable that Mr. Wilson might know his address.

Mr. *Thomas Binge,* called in; and Examined.

Mr. *T. Binge.*

370. *Chairman.*] YOU reside at 23, Stockbridge-terrace, Pimlico?—I do.

371. Just take the Pimlico petition in your hand. Does that petition purport to be signed by you?—It does.

372. Is there your name and address?—The address is not here. It is merely my name and occupation.

373. It purports to be signed by "Thos. Binge"?—It does.

374. Does it give the occupation?—"Chemist."

375. That is your occupation?—Yes; I am a Pharmaceutical chemist.

376. Did you sign that petition?—No; this is not my handwriting.

377. Did you give any person authority to sign it for you?—No.

378. Sir *FitzRoy Kelly.*] Is there any reference to any address?—Yes; there is Stockbridge-terrace above.

379. That purports to be the address and signature of Thomas Binge, of Stockbridge-terrace?—Yes.

380. There is no other person of the same name as yours there?—No; I am the only chemist of that name there. I see there is my next door neighbour's signature there following mine also.

381. That you say is not your signature?—No.

382. What is your next door neighbour's name?—Cobham.

383. Do you know his handwriting?—I do not think this is his writing.

384. Mr. *Owen Stanley.*] Does it bear any resemblance to your signature?—Not much; the "Thos." is written in the same way I do, "Thos.;" but the writing is not mine, and it is very little like mine.

385. *Chairman.*] Do you see any other signature that you have reason to believe

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lieve is fictitious?—Yes; there is also "Thomas Vine," who resides two or three doors from me; and as far as I remember his handwriting, I should say it is not his; but I could not speak to it positively. Mr. Cobham's I feel pretty sure is not; I see another one, Mr. Sewell.

386. Mr. *Bonham-Carter.*] Do you know that person's writing?—Yes; I have seen his writing many times. That does not appear to me to be his.

Mr. *Charles Collins,* called in; and Examined.

Mr. *C. Collins.*

387. *Chairman.*] WHAT are you?—A tailor.

388. Do you reside at 5, Stockbridge-terrace?—Yes.

389. Just take that petition in your hand, and see whether it purports to be signed by you?—Yes, it does.

390. Did you really sign it?—No.

391. Did you give any person authority to sign it for you?—No.

392. Does it seem to be an imitation of your handwriting?—It has no resemblance to it whatever.

Mr. *Walter T. Jones,* called in; and Examined.

Mr. *W. T. Jones.*

393. *Chairman.*] I BELIEVE you are a builder, residing at 93, Cambridge-street?—I am.

394. Will you look at the Pimlico petition?—I know nothing about that.

395. Did you sign it?—No.

396. Did you give any person authority to sign it for you?—Never.

397. Does that appear to be an imitation of your writing?—Not at all; it is not at all like my usual writing in any way.

398. Does it give your address and profession?—Yes; that is one of my addresses; that is my private address. My business address is Warwick-street, Pimlico.

399. Just read from the petition how you are described?—"Walter Jones, Builder, 93, Cambridge-street;" I see the name here "Evan Evans." He is a builder; I know his handwriting; this is much better than his. There is another one I know here, "W. C. Mitchell, Builder, Warwick-street;" I have known him for some 10 years, and that certainly is not his signature.

400. Is it an imitation of it?—It is rather an imitation of it.

Mr. *John Strutt,* called in; and further Examined.

Mr. *J. Strutt.*

401. *Chairman.*] HAVE you brought with you the list of agents which you promised to make out?—I have.

[*The Witness delivered in the same, which is as follows:*]

LIST of AGENTS and other GENTLEMEN who have been engaged in getting up PETITIONS to PARLIAMENT in favour of the CLAIMS of His Highness Prince Azeem Jah Bahadour, Nabob of the Carnatic.

—	Names of Agents and Others, with Addresses.	OBSERVATIONS.
No. 1.	C. Poorooshottum Moodelliar.	This gentleman came to England about three years since, as a Commissioner from his Highness Prince Azeem Jah and his family, to advocate their claims before Parliament or otherwise. In doing so he went to various parts of the kingdom, and deputed agents to get up petitions; and about the same time he appointed Mr. Strutt to assist him, as the Parliamentary Agent and Solicitor to the Prince. Before Poorooshotun Moodelliar left England, he engaged persons in the North of England to get up petitions, which Mr. Strutt knows nothing about.
No. 2.	Emmerson Dawson, Esq., 7, Wellington-road, St. John's Wood.	Poorooshotun was recalled last year, and went back to Madras. Mr. Dawson was sent in his stead, and now represents the Prince. Mr. Strutt continues to hold his appointment under this gentleman.
No. 3.	Mr. John Strutt, 2 Adelphi-terrace, Strand, Parliamentary Agent and Solicitor.	Mr. Strutt, being the agent, and considering it advisable to obtain petitions from the people in favour of the claims of the Prince, appointed the following persons for that purpose, and paid them, with some exceptions, for so doing.
No. 4.	Mr. George Potter, Bolt-court, Fleet-street, in the City of London, Newspaper Editor, and Secretary to the Trade Societies of England.	This gentlemen undertook and obtained petitions from— Manchester. Hull. Nottingham. Halifax. Coventry. Leeds. Rochdale. Huddersfield. London. Westminster. Birmingham, &c. &c. He employed agents at these places, and Mr. Strutt furnished him with money from time to time for that purpose.
No. 5.	Mr. Donald Barry, Gray's-Inn-road, Pianoforte Manufacturer, and an Elector for the Borough of Marylebone; and,	These parties obtained petitions from the inhabitants of St. Pancras,
No. 6.	Mr. John Manning, North Western Railway, a Clerk to the Company.	The Clerks and others employed on Railway, and other parts of the borough of Marylebone, and were paid by Mr. Strutt.
No. 7.	Mr. Fisk, Amwell-street, Clerkenwell, Bootmaker	This person obtained the signatures to a petition well signed by the respectable inhabitants of Pentonville, Electors for Finsbury. The petition laid for many weeks at his shop. He was paid for his trouble.
No. 8.	Mr. Machen, 226, High Holborn, Clerk in the firm of Howitt & Co.	This person got up a petition signed by voters and others of Finsbury, chiefly employed in the large warehouses of Messrs. Day & Martin, Messrs. Howitt & Co., &c. &c., and was paid.
No. 9.	Mr. Van Buren, 38, Threadneedle-street, and Stoke Newington, Commission Agent.	This person got up petitions from inhabitants of the City of London; Stoke Newington, and other voters of Finsbury; was paid.

31 March 1865. LIST of Agents and other Gentlemen who have been engaged in getting up Petitions, &c.—*cont^d.*

—	Names of Agents and Others, with Addresses.	OBSERVATIONS.
No. 10. No. 11. No. 12.	Arthur B. Bedwell, Esq., Solicitor, 2, Adelphi-terrace; Wm. Barrell, Esq., Solicitor, Liverpool; and, Mr. Davis, his Clerk.	These gentlemen were engaged in getting up petitions from— Liverpool; and Mr Bedwell was engaged upon Petitions at— Hastings, &c., and were paid.
No. 13.	Richd. S. Barnes, Esq., Solicitor, Harwich, Essex.	This gentleman obtained a petition signed by the Mayor, Magistrates, and Electors of the Borough, and was paid.
No. 14.	Mr. Goodwin, Land Agent and Accountant, of Queen-street, Ipswich.	This gentleman obtained and got up petitions from Ipswich, which was numerously signed by magistrates and electors. He also employed agents for Woodbridge Petition, and was paid.
No. 15.	— Cobb, Esq., Editor and Proprietor of "Essex and West Suffolk Gazette."	This gentleman employed agents at Colchester, and got up petition from magistrates and corporation, and others. He did not receive any payment for his services, but was paid a sum for the agents' expenses.
No. 16.	Westley Richards, Esq., Birmingham.	This gentleman undertook to get up a Birmingham Petition, signed by the mayor, magistrates, and others, to the number of 1,200 and upwards, but he employed a friend, and his friend employed agents, for which Mr. Dawson paid. Mr. Richards did not charge anything for his expense.
Nos. 17, 18 and 19.	Captain Cator, R.A., Joseph Bolland, Esq., Lieutenant R.Y.M., and Richard Eydon Garrett, Esq., Solicitor, all of Hull, Yorkshire.	These gentlemen assisted in getting up a petition, signed by the sheriff, mayor, ex-mayor, magistrates, merchants, and electors—the two former charged nothing; the latter gentleman received payment for his expenses as a solicitor.
No. 20.	William Grimwade, Esq., Hadleigh, Suffolk, Banker.	This gentleman got up the petition for the town of Hadleigh, employed agents, but would not receive anything for himself or agents.
No. 21.	Mr. Cooper, Great Munden, Herts, Farmer.	This gentleman got up a petition, but would not receive anything.
No. 22.	Mr. Collett, Sunbury, Middlesex, Stationer.	This agent got up a petition, and was paid.
No. 23. No. 24.	Edward C. Strutt, Esq., Waltham House, Chiswick, employed Mr. Whitechurch, a Clerk at Hammersmith.	This gentleman assisted in getting up the petition for Chiswick and Hammersmith; also, Southampton, Brighton, Edinboro', Plymouth, &c. employed agents, but only received money for their expenses, &c.
No. 25.	L. Bruten, Esq., Secretary to Chamber of Commerce, Bristol.	This gentleman employed his clerks to get up petition from merchants belonging to the Chamber of Commerce, and other electors for the City of Bristol, but only charged for their expenses.
No. 26.	Robert Roby, Esq., Editor and Proprietor of the "Caledonian Mercury," Edinburgh.	This gentlemen assisted in getting up this petition, and obtaining agents for that purpose, but did not charge anything for himself; the agents were paid.

List of Agents and other Gentlemen who have been engaged in getting up Petitions, &c.—*cont*ᵈ.

—	Names of Agents and Others, with Addresses.	Observations.
No. 27.	George Moore, Esq., White House, Putney, Editor of a newspaper.	This gentleman assisted, and employed agents in getting petitions from— Buckinghamshire, Lynn, Aylesbury, and Norwich. A sum of money was paid to him, out of which he paid agents.
No. 28.	Mr. John Fowler, of Aylesbury, Wine Merchant, assisted Mr. Moore.	Without payment.
No. 29.	Mr. Mills, Law Stationer, Chancery-lane and Kennington.	This agent got up petitions from— City of London, Brixton, and Stockwell; and was paid.
No. 30.	Mr. W. Smith, Brighton, Accountant.	This agent got up petition, numerously signed, from Brighton; delivered same into the hands of Mr. White, which he presented and supported on night of motion; was paid.
No. 31.	Mr. Bosworthick, Surveyor, of Plymouth.	This agent got up Plymouth Petition, and was paid.
No. 32.	Mr. George M. Mitchell, calling himself a Clerk in the Petition Office of House of Commons, and a Dispatch and Agency Agent, also of 79, Cannon-street, City.	This agent was engaged to get up various petitions for the metropolitan borough, Westminster, Pimlico, Marylebone Tower Hamlets, Finsbury, &c. &c. &c. &c. And he states he employed five or six others to assist him, for which petitions Mr. Strutt paid him, as set forth in his examination before Committee on the 28th of March instant. The receipts for such payments Mr. Strutt placed in their hands.
No. 33.	Mr. James, Devonport, Canvasser.	This agent was engaged to get up petitions, and employed agents, for which he was paid.
No. 34.	Mr. Lloyd Williams, 10, Marlborough-road, Manchester.	This agent was employed, and got up petitions at the following places: Bolton, Salford, Bury, Ashton-under-Lyne, Oldham, Mancheste r Wrexham, Staleybridge, Chester, and other places in the manufacturing districts. He employed many others, for which he was paid.

Mr. *J. Strutt.*

402. *Chairman.*] I think you told us at the last meeting that you began to suspect you had been imposed upon by Mitchell in the matter of these petitions?—Yes.

403. Was that before the subject was mentioned in the House, or afterwards?—A day or two before.

404. I think then you refused to pay him until you were satisfied as to the genuineness of these petitions?—I did.

405. And you suggested he should see me?—I would have nothing to do with him until he had seen you, and satisfied you that the petitions were fair and straightforward.

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406. You required him to satisfy me as to the genuineness of these petitions before you made him any further payment?—I did.

407. He certainly came to see me; but I need not tell you I made no such absurd statements as those contained in his letter. I refused, of course, to hold any communication with him upon the subject. In consequence of Mitchell's letter, did you make any further payment in respect of such petitions?—I refused to do so.

408. After he wrote to you?—I refused to do so because I felt convinced he had done wrong. Afterwards his lawyer sent me a letter demanding payment and threatening proceedings. At least he demanded the charge in a manner which was tantamount to a threat. I wrote a letter in reply to his solicitor refusing to have anything to do with him, and charging him with swindling.

409. What is the balance that he claims against you now?—The balance which he claims is 6*l.* or 7*l.*

410. The outstanding balance?—Yes. I must tell you that that is not for petitions; that is for his services in getting petitions presented, and in attending in watching the motion of Sir FitzRoy Kelly.

411. It is all in reference to this case?—It is all connected with this case.

412. Then he made a charge upon you for services irrespective of the petition?—One of the charges that he made was for going down to see you.

413. What did he charge you for that?—A guinea.

414. Mr. *Owen Stanley.*] Have you paid him anything?—Yes, I have paid him too much money.

415. How much have you paid him?—I suppose I have paid him between 50*l.* and 60*l.*

416. For these petitions?—For these petitions.

417. He claims 6*l.* more?—He has the assurance to claim 7*l.* more. I have not added up what I have paid him. I handed in the receipts the other day. I should like to read the letter that I received from Mitchell's solicitor, and then I will read my answer, if you will allow me.

418. *Chairman.*] First read the letter of the solicitor?—I have known the solicitor for about 20 years, and that explains why he writes to me in the familiar way he does. "17, Great Carter-lane, Doctors Commons.—18 March 1865.—Dear Strutt,—Mr. Mitchell wishes you to send me a cheque for 7*l.* 5*s.*, being 2*l.* paid for paper and printing at your request, and 5*l.* 5*s.* for attendances in obtaining presentations of petitions to Parliament, and for services rendered you as the solicitor and agent of the Prince Azeem Jah. You will confer a favour by an immediate cheque, without 6*s.* 8*d.* for my costs. Hoping you are well. Yours truly, *James Wyatt.*—To John Strutt, Esq." Upon receiving that letter, I sent Mr. Wyatt the following reply: "2, Adelphi-terrace.—20 March 1865.—Dear Wyatt,—Strange to say at the moment your letter came I was engaged with a gentleman who had called to investigate the subject of numerous forged signatures to the petitions you allude. It is not my intention to allow Mr. Mitchell to obtain one shilling more than he has already done, and if I do not hear any more from him upon the subject, he will from me. He has swindled me out of a large sum, under pretence of being a clerk in the House of Commons, and a getter up of petitions to both Houses of Parliament, for which I was to pay one penny for each person's name; the list contained many thousands. About one in every hundred is genuine, the rest forgeries, or something very much like them, and for which he has received the money, and I hold his receipts. I know nothing about the paper you allude to, except that he wants to charge me 2*l.* for about 30 sheets. I never ordered it, and refused to recognise anything of the kind. If you will call upon me any morning, between eleven and one, I shall be happy to see you, and I will then give you a little further information about this gentleman and myself. Yours very truly, *John Strutt.*—To J. Wyatt, Esq., 17, Great Carter-lane, Doctors Commons."

419. Have you any reason to suspect any agents whom you may have employed upon the matter of these petitions, of having been guilty of malpractices, with the exception of Mitchell?—None whatever.

420. Mitchell is the only one whom you suspect?—I have not the slightest reason to suspect any other person.

421. Sir *FitzRoy Kelly.*] Have you any reason to doubt the genuineness of a signature or signatures to any other petition whatever, than those which you have obtained

obtained of Mitchell?—None whatever, nor do I believe that there is a single bad petition amongst them.

422. Mr. *Owen Stanley.*] Can you tell us the total amount you paid for all the petitions relating to Azeem Jah?—No, I cannot.

423. Can you give the Committee an approximate idea?—That is a professional question which I do not think I ought to answer. I do not say so out of disrespect to the Committee, but I do not think you should ask me to say how much money I have paid away. I have given the Committee a list of the agents whom I have paid money to.

424. *Chairman.*] We have no power to compel you to answer?—I do not want any compulsion. I am now doing what I do not think I should have done in giving the Committee a list of paid agents.

425. Then you decline to answer the question?—If you wish me to answer it I will do so, but I ask the Committee to be kind enough not to persist in asking me to do so. May I be allowed to explain one of the questions which was put to me by Mr. Alderman Salomons the other day? This question was put to me; "The petition itself was prepared in your office, I suppose? No, it was not; I have stated several times that none of the petitions which Mitchell got up were prepared in my office." Now I wish to explain that Mitchell called at my office upon one occasion, and a number of petitions were lying ready to be delivered to some of the different agents, and Mitchell asked, as he had not got his petitions engrossed, to be allowed to take two of them away, and I consented to their being taken away. I wish that explanation to be upon your minutes.

426. Mr Alderman *Salomons.*] You say the petitions were lying on your table?—Yes.

427. Were they petitions not signed?—Those were petitions that were drawn up for other agents, not Mitchell's.

428. Were those signed petitions, or in any form to be signed?—They were to be signed.

429. They were unsigned, in fact?—They were unsigned at that time.

430. How did those petitions get into your office?—They got in by the law stationer engrossing them.

431. For whom?—For several other agents in different parts of the country.

432. I want you to explain how these petitions got to you?—Those petitions were engrossed by the law stationer under my directions.

433. Who prepared or furnished the draft?—The draft was drawn and prepared long before I was concerned for the Prince; the engrossings were copied from a printed petition which had been got for me before I was concerned for the Prince.

434. How did that form get to the law stationer's?—By my sending it.

435. You sent the draft form to the law stationer?—Of course I did; he engrossed a certain number of petitions and sent them back to me, and those petitions I sent or gave to different people who are in that list which I have handed in to the Committee to-day.

436. Then your statement is to this effect, that instead of these petitions being drafted by Mitchell they were drafted by you, and you gave them to Mitchell?—They were not drafted by me at all; they were engrossed from a copy of a petition which had been sent to Parliament previous to my being engaged as agent.

437. I am not speaking of the composition; I do not ask who composed the petitions. I understood you to say before, that Mitchell not only got the signatures, but had prepared the petitions; now I understand that your statement is, that those petitions were sent in your form by you to the law stationer, having been copied from some other drafts, and then they were returned to your office, and then you gave those forms to Mitchell?—No; I beg your pardon. You put that question to me, wishing to understand from me that I furnished all the petitions to Mitchell. That was the question that you put to me, and my answer was, that I did not do so. I wish to explain that there were two or three petitions which got into Mitchell's hands, which he took from my office, because those which he had to engross and prepare were not ready. The other petitions that Mitchell got up were prepared by him; and all the petitions, with the exception of these two or three, were got up by Mitchell.

438. Then is your statement this, that instead of all the petitions being furnished by Mitchell, some of them came from your office?—Two or three.

439. Can you identify those two or three?—Yes I can; I can easily identify

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those. There is no difficulty in identifying any of the petitions which came from Mitchell. This is one of Mitchell's engrossing. This is the Westminster petition.

440. Mr. Alderman *Salomons.*] I presume, if you had all the petitions before you, you could identify those the drafts of which came from your office?—I think I could identify my law stationer's writing, and I am quite sure I could identify Mitchell's writing.

441. The question is with reference to the petitions that came from your office, not Mitchell's?—I can do that, no doubt.

442. Mr. *Owen Stanley.*] Were the headings of all the petitions that were got up by your different agents throughout the country all engrossed by the same hand?—No. Mitchell's petitions were all engrossed by him. I engaged him to get them up. I thought him the most eligible of all the agents. He undertook to get up all the petitions—he undertook to engross the petitions, and to get the signatures to them. All the other petitions were engrossed for me by my law stationer.

[The proceedings were here adjourned until half-past Three o'clock.

Mr. *James Poingdestre*, re-called; and further Examined.

Mr. *J. Poingdestre.*

443. *Chairman.*] DID you, in pursuance of my order, go to Cannon-street with the summons?—I did.

444. Did you succeed in finding Mitchell?—They knew nothing of him in Cannon-street, West; I then proceeded to 78, Cannon-street, and in an office there they told me that there were papers and letters left for him, but he had not been near the place for the last fortnight, and they believed that he had gone into the Midland Counties. I found that he had left Charles-street for more than a month; in fact, they were very anxious to know where he was.

445. Mr. *Cox.*] What did you do then?—I then went to Mr. Wyatt, the solicitor, in Great Carter-lane, and a clerk told me that he had not left there more than about five minutes, and had gone to the Bankruptcy Court; I proceeded there, and found him in the lobby, and served him with the order, and requested him to come up to the House forthwith. I asked him to come with me, and offered him a seat in my cab; but he declined. He said he wished to make himself respectable before he attended the Committee.

446. Sir *FitzRoy Kelly.*] You have not his address even now?—No; and if the Committee were to make another order for his attendance I should not know where to serve him.

447. Did you ask him for his address?—No; I did not. I summoned him to attend forthwith; it was on the order to attend forthwith.

448. You offered to bring him with you?—I had a cab at the time, and I offered him a seat in the cab with me.

449. *Chairman.*] Did you tell him that the Committee was then sitting?—I told him the Committee was then sitting.

450. Sir *FitzRoy Kelly.*] And he assigned no reason why he did not come with you?—None; except that he wished to make himself respectable before attending the Committee. I do not suppose if I had asked him for his address that he would have given it to me.

Lunæ, 3° die Aprilis, 1865.

MEMBERS PRESENT:

Mr. Bonham-Carter.	Sir FitzRoy Kelly.
Mr. Cox.	Sir Colman O'Loghlen.
Sir James Fergusson.	Mr. Taverner John Miller.
Mr. Charles Forster.	Mr. Alderman Salomons.
Major Gavin.	Mr. Owen Stanley.

CHARLES FORSTER, Esq., IN THE CHAIR.

George Morris Mitchell, called in.

G. M. Mitchell.

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451. *Chairman.*] WHAT is your name?—My name is George Morris Mitchell.

452. What is your profession?—My profession is a Parliamentary Agent and Compiler of Indexes.

453. Where do you live?—I am living at 28, Weymouth-terrace, Hackney.

454. It is my duty to tell you that from the evidence which has been given before the Committee, we believe you to be in a position of peril with regard to the petitions relating to the claims of Azeem Jah; I have to caution you against any statement you may make; you are not bound to say anything that may criminate yourself in any way. Anything you may say will be taken down, and may be made use of against you. It is for you to say whether, under these circumstances, you will make any statement. I should tell you, that we have had evidence that you received from Mr. Strutt the headings of certain petitions; that those petitions were returned by you to Mr. Strutt, with names which, according to the evidence which has since been given before the Committee, are undoubtedly forgeries?—Well, sir, I am not guilty of that charge.

455. Mr. Alderman *Salomons.*] You are not guilty of that charge?—Certainly not.

456. *Chairman.*] Have you any statement to make?—The only statement I have to make is, that on the day you, sir, presented the Report from the Select Committee on Public Petitions to the House, complaining of the inaccuracy of the petitions, I called upon Mr. Strutt on the following morning, and at his special request I waited upon you. He asked me particularly to see you, he said, because his honour must not be compromised; that he had got into a mess some years ago with regard to some petitions, and asked me if I would take the onus entirely on myself—(*addressing the Chairman*)—I believe you remember the conversation between you and myself.

457. You came to me, and I told you I could not communicate with you, or hear anything you had to say except in the presence of the Committee?—Yes, you did.

458. I told you that the Committee met that day, at three o'clock, to consider the question of a special report, and you then stated that you could not be there, because you had to go out of town?—Yes.

459. Have you any further statement to make?—No, I have not, sir; I simply beg to tell the Committee that I am not guilty of the charges that are brought against me; and, further, that if I had known Mr. Strutt's antecedents so much as I have learnt the last two or three days, I should have had nothing at all to do with him.

460. Mr. Alderman *Salomons.*] What charges do you mean when you say you are not guilty of the charges brought against you?—That I had committed some inaccuracy as to the signatures to the petitions respecting the case of Prince Azeem Jah; I understand you to mean that, sir.

461. *Chairman.*] The charge is that the signatures are fictitious and forged; I do not say by whom?—May I ask the Committee who made the charge?

Mr. *T. Charles.*

Mr. *Thomas Charles*, called in; and Examined.

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462. Mr. *Owen Stanley.*] YOUR name is Charles, is it not?—Yes.

463. You are a fishmonger, living in Arabella-row, Pimlico?—Yes.

464. Have you ever signed a petition relating to the case of Azeem Jah?—No; I have never even heard of his name.

465. Will you take this petition into your hand, and read it over carefully, and then look at that which professes to be your signature. Is that your writing?—No, that is not my signature.

466. Mr. Alderman *Salomons.*] Read what is there put down?—Thomas Charles, fishmonger.

467. Mr. *Owen Stanley.*] Do you observe the name of Stevenson, confectioner, of Arabella-row?—Yes.

468. Do you know such a person?—Yes; he has just left Arabella-row. I do not think that is his handwriting. I think I may say, with great confidence, that that is not Mr. Errington's handwriting (*pointing out another signature*).

469. *Chairman.*] Does that resemble Mr. Errington's handwriting at all?—No.

470. Does the signature purporting to be yours resemble yours at all?—No.

471. Did you ever give any person authority to sign such a petition for you? Never; I have never heard of this prince before.

472. Mr. *Owen Stanley.*] Is there no similitude to your handwriting?—Not in the least.

473. Is there any attempt to imitate your handwriting?—I think there may be in the "Ch." There is an attempt to imitate my writing, looking at the form of the letters "Ch." That is not Mr. Hird's writing (*referring to another signature*).

474. Sir *FitzRoy Kelly.*] Take one at a time. You have done with your own. You gave no authority for your signature to be affixed to that petition?—No.

475. Will you now point out to the Committee the signature of any person which you believe to be fictitious?—The next is, "John Hird, bootmaker." I am quite sure that that is not his handwriting.

476. You have spoken of persons of the names of Stevenson, Errington, and Hird; do you know these three persons?—Yes, I do, well.

477. Can you say that those three signatures are not in their handwriting?—I believe they are not. I am quite sure that that is not Mr. Hird's, especially.

George Morris Mitchell.

G. M. Mitchell.

478. *Chairman.*] DO you wish to ask Mr. Charles any question?—No, I do not; I never saw Mr. Charles before.

479. Sir *FitzRoy Kelly.*] Now, Mr. Mitchell, you have, I presume, heard what the charge is against you?—I have heard this day from the Chairman, sir.

480. It has been alleged that this petition which I am now about to hand to you was placed in your hands, and that when it left your hands it contained the signatures which we find affixed to it; and you have now heard Mr. Charles, whose signature purports to be affixed to it, declare that that is not his signature, and that he gave no authority to anyone to affix that signature to that petition?—Yes.

481. You have heard also that there are three signatures affixed to it of three persons of the name of Hird, Stevenson, and Errington; that Mr. Charles is acquainted with the handwriting of those three persons, and he declares that those three signatures are not in their handwriting respectively. Take that petition in your hand (*handing the Pimlico petition to the Witness*)?—I will look at it, if you will allow me.

482. Look well at it. I do not ask you any question upon the subject, but the Committee are desirous that you shall look well at all that is written on the outside of that petition as well as on the inside of it, and, after looking at it, the Committee are desirous of knowing whether you have any explanation to offer, or anything to say to the Committee upon the subject?—Well, sir, I had very little to do with these petitions.

483. Pardon

483. Pardon me a moment. Have you looked carefully at what is written outside. Before you give any explanation, just look well at what is written on the outside of it, and also look well at the character of the handwriting?—(*The Witness examined the outside of the petition*).

484. Now, look inside it, and see what the petition is. You will see there are a very great number of signatures there, and that of Mr. Charles among others?—Will you show me the name, Mr. Charles?—(*Mr. Charles pointed out the signature which purported to be his to the Witness*).

485. Before we part with that petition, I wish you also to look to the names three persons, Eales, Hawes, and Ginger, who are officers of this House, and which will be pointed out to you.—(*The three signatures referred to were pointed out to the Witness by the Committee Clerk.*) Now, you have looked carefully at the writing on the outside of that petition, and you have looked at the petition itself inside, and the signatures of the several persons whose names I have mentioned, Mr. Charles, Mr. Eales, Mr. Hawes, and Mr. Ginger. Having looked at them, remembering what I have already stated to you, the charge against you is that while that petition was in your hands, or under your control, those signatures were affixed to it which turn out to be fictitious signatures. I have only to say on behalf of the Committee, that if you have any explanation to offer, or any statement whatever to make, the Committee will be very ready to hear it, and avail themselves of it. You will only be good enough to remember, as I understand the Chairman has already notified to you, that any statement you may make may be used hereafter against you?—Yes. Well, sir, I have simply this to say, that I had very little to do with those petitions, and during the time that I had to do with Mr. Strutt and the petitions I was suffering from a sprained hand, and therefore I could not write, so much so, that I think you will find, if Mr. Strutt will produce the receipts for what small sums of money he has paid me, that those receipts are not in my handwriting. If you want any further information, my clerk had better be subpœnaed.

486. *Chairman.*] Then you had better give the name of your clerk?—Powell Marshall, 27, Weymouth-terrace, Hackney. I will give you another name, Mr. Whitehead. I deputed him to attend to them, for my time was so much taken up with matters of some importance that I did not give much attention to the petitions for Mr. Strutt, and I should not have undertaken the business if it had not been that Mr. Strutt promised me plenty of electioneering business after the prorogation of Parliament.

487. Sir *FitzRoy Kelly.*] Is that all you have to state concerning the Pimlico petition, and the signatures affixed to it?—I think I have had altogether about 18 or 20 petitions; and I do not know why I should be selected out from so many who have been employed by Mr. Strutt in getting up these petitions. I should think perhaps there are 40 who have been employed by Mr. Strutt in different parts of the country and in London; and I will give you some of their names if you will allow me.

488. I have already told you that the reason why you are called here now in relation to that particular petition, and another which I am about to place in your hands, is, that evidence has been laid before this Committee that those two petitions having come to your hands, it was while they were in your hands or under your control that these fictitious signatures were affixed to them. We do not ask you any question, and still further, we do not call upon you, one way or other to make any charges against any other person. You may do so if you please. We only ask you, such being the facts that have been deposed to before the Committee relating to yourself, whether you have any further explanation to offer, or any statement to make concerning the particular petition, namely, the Pimlico petition, which we are now speaking of?—No, I do not know that I have, Sir FitzRoy. I should not have known that Mr. Charles's name was to the petition, or the names of Mr. Ginger, or Mr. Hawes, unless it had been from coming here this morning and seeing their names to the petition.

489. Is that all you have to say concerning that petition?—I do not know of anything else. From my long connection with the House of Commons before I left, I know the importance of petitions presented to the House of Commons, and therefore I should have been very particular myself, if I had been engaged myself in collecting signatures to the petitions, to have had them all genuine.

490. Have you anything more to say concerning that Pimlico petition?—No, I think not, Sir FitzRoy.

G. M. Mitchell.

3 April 1865.

491. I once more call your attention to the fact, that evidence has been given that that petition reached your hands, and that while it was in your hands, or under your control, these fictitious signatures were affixed to it. I have merely once more to ask, whether you have any explanation to offer, or any statement to make, in relation to those facts?—Under my control! Well, Sir FitzRoy, I had a number of printed forms of petitions in favour of Azeem Jah, and I believe men were employed through my clerk, and through Mr. Whitehead, to take those printed forms round, with sheets of paper, to different places to get signatures, and for which I paid. I have lost money by Mr. Strutt. I am told that he has represented to the Committee that he has paid me 60*l.*, which is a direct falsehood, and I am suing him now. If I had known Mr. Strutt's antecedents before, I should have had nothing at all to do with him. I regret very much that I ever knew him.

492. Is that all you have to offer touching the Pimlico petition?—I do not know anything more about the Pimlico petition.

493. Now, look at the writing outside that petition (*handing the Westminster petition to the Witness*)?—Yes.

494. Look at the address and all that is there?—Are you alluding to the names that are crossed?

495. There, all three names, and I believe there are others. Mr. Walmisley, "Henry Stone Smith," and Mr. Davenport?—I know them all very well.

496. Those three names are proved to be fictitious, that is, not in the handwriting of the persons whose handwriting they purport to be?—I know this is not the signature of Mr. John Walmisley very well indeed.

497. All that I wish to call your attention to is this: you have looked, I perceive, at the handwriting outside that petition, and all that is written outside that petition. You have seen the names of Walmisley, Smith, and Davenport, which have been proved to be forged. I make the same remark to you, that evidence has been given that that petition reached your hands, and while in your hands, or under your control, those signatures were affixed to it which turn out to be forgeries. The Committee desire to know whether you have any statement to make, or any explanation to offer?—I do not know what statement I can make. I had nothing to do with the petitions. I simply sent them out, and paid parties for getting signatures to these petitions. I did not send this, of course, with every sheet of paper. My clerk had more to do with them than I had. You had better examine him, I think, Sir FitzRoy.

498. Now, Mr. Mitchell, have you anything to add in relation to the Westminster petition, which I have put into your hands?—I do not think I have, Sir FitzRoy; I do not know anything of the signatures.

499. Just let me also tell you that it has been alleged before the Committee by Mr. Strutt, that you were employed to get up or prepare these petitions for presentation, and that you were to be paid, and that ultimately you were paid as to some of the petitions, at least, of so much per signature?—Yes.

500. I mention that that has been alleged in order that if you have anything to say upon that subject, you may have an opportunity of saying it now before the Committee?—I have nothing much to say; I undertook this business, Mr. Strutt promising me that if the Prince Azeem Jah were able to obtain his committee of inquiry, that he would make me a very handsome present, and further, that he would give me plenty of Parliamentary business. I am a loser by Mr. Strutt, and I am suing him now for the balance of account.

501. Did you quite understand what I said, that it has been alleged against you that you were employed to get up these petitions, and that you were paid at so much per person who should sign the petition; I merely ask you if you have anything to say upon that, one way or the other?—No, I have not. I employed persons; it would not be worth my while to be running about for persons to sign petitions; my time is more profitably employed. Those are works that I am engaged upon, Sir FitzRoy (*handing in some papers*).

502. We wish to state to you, as you have mentioned the names of one or two persons, your clerk, or clerks, and others, in relation to this business, that if you desire to call them or any other person as witnesses in your behalf before the Committee, the Committee will be ready to hear them at a time to be appointed for your attendance?—It is at your pleasure, Sir FitzRoy, not at mine; it is at the pleasure of the Committee.

503. Sir *FitzRoy Kelly.*] The Committee will exercise their own discretion as to

to whom they may choose to call before them; but whether they shall or shall not call either of those persons, or anybody else before them, it is our duty to tell you that if you think fit to call them, or any other witnesses you will name, if you will apply to us or state to us that you desire such and such persons to be examined on your behalf, we will then take the question into consideration; perhaps, in the meantime, you will consider that, and withdraw for the present. *G. M. Mitchell.* 3 April 1865.

Mr. *Herbert James Cove*, called in; and Examined.

504. *Chairman.*] WHAT is your position in the House of Commons?—I am superintendent of the Members' waiting room. Mr. *H. J. Cove.*

505. Do you, as superintendent of the Members' waiting room, receive the petitions which come to the House for Members?—Yes, I do.

506. Did you receive any petition in connection with the claims of Azeem Jah?—I think I must have received nearly all that were presented, judging from the number which I see recorded in the Votes.

507. Do you remember by whom any such petitions were brought to you?—Yes; they were brought by several people. Mitchell himself brought one, if not two consignments; but the first petitions on the subject of the claims of Azeem Jah which emanated from Mitchell, were brought by a man whom he sent with a letter to his former colleague in the Journal Office of the House of Commons.

508. What is his name?—Marshall. He is the messenger to that office, and was formerly a colleague of Mitchell.

509. Did any petitions come from Marshall to you?—Marshall brought down a man to me whom Mitchell had sent to him with the petitions, and I received them from that person.

510. Can you identify any of the petitions which were so brought to you?—Yes; those two.

511. Which are they?—The petition from the City of Westminster and the petition from the inhabitants of Pimlico, both of which were contained in the first parcel of petitions that were sent by Mitchell.

512. Sir *FitzRoy Kelly.*] That is, you are speaking of those that came through Marshall?—Yes. Marshall never had the petitions in his hands, but he brought the man down to me.

513. You have spoken of a letter which the man brought; where is that letter?—Marshall told me that he destroyed it. I never saw the letter except in his hand when he came down with the man who brought the petitions. Perhaps I may be allowed to explain it again. Mitchell sent a letter to Marshall by a man with a number of these petitions, asking him to get them presented to the House of Commons, and Marshall, not being able to receive the petitions and deliver them to Members, brought the man down to me with those petitions, and, with the letter in his hand, told me the purport of its contents.

514. Mr. Alderman *Salomons.*] You communicated with a man whom Marshall brought to you?—Yes.

515. But Mitchell was the man who sent him?—Yes.

516. Sir *FitzRoy Kelly.*] Did you see that letter?—Only the back of it; Marshall held it in his hand.

517. Mr. *Bonham-Carter.*] How do you identify these petitions?—From the corners being cut off the petitions in this way (*pointing it out*).

518. Sir *FitzRoy Kelly.*] You cut the corners off?—Yes.

519. You see by that, that those are the petitions?—Yes.

520. *Chairman.*] Take those petitions into your hands. Do the two petitions which you identify as having been brought to you in the first consignment bear the address of "Sir John Shelley," and "Mr. Waldegrave Leslie?"—Yes.

521. That is to say, the Pimlico petition has the address of "Mr. Waldegrave Leslie?"—Yes.

522. And the Westminster petition "Sir John Shelley," is that so?—Yes.

523. Mr. Alderman *Salomons.*] I understood you to say that you had some petitions from Mitchell himself, is that so?—Yes. I could not identify any petitions except those that I cut the corners off, for a special reason.

524. Mr. *Owen Stanley.*] What was that reason?—The reason was, that the names of Members were affixed on the petition as if they had been written by themselves. There was no attempt at an imitation of their signatures. It being

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contrary to the practice of the House to have petitions purporting to be signed by Members, which I knew was not the case, I cut off the signature before the man, and said I should not receive any more if he brought them so endorsed. That is why I am able to identify these petitions as being the first that were delivered.

525. Sir *FitzRoy Kelly.*] You do not identify any that were brought to you by Mitchell himself?—No.

526. Are you acquainted with Mitchell's handwriting?—No; but he sent a letter down to me the day before the case was coming on; I thought the letter was destroyed, but I find it put among the correspondence which I receive on matters of business.

527. Do you know Mitchell personally?—Yes; he was in the House of Commons for many years, so that I must necessarily know him.

528. Mr. Alderman *Salomons.*] How long has he left?—I think he left, to the best of my recollection, in 1854 or 1853; I rather think it was in 1854.

529. Sir *FitzRoy Kelly.*] Fully 10 years ago?—Yes.

530. *Chairman.*] Was he ever in the office of Public Petitions?—He was messenger in the Journal Office, and he had the endorsement of Public Petitions, the duty which is now performed by Marshall and Claxton, under Mr. Bull.

531. Mr. Alderman *Salomons.*] Have you received many petitions from Mitchell?—Never any before this case of Azeem Jah.

532. Sir *FitzRoy Kelly.*] How many petitions did you receive with this letter?—To the best of my belief it was five, six, or seven.

533. Those you cannot identify?—No.

534. *Chairman.*] You say he was a messenger; then he was not a clerk?—No. I rather think the title of his office was messenger to the Journal Office; I will not be sure about that; but it could be easily ascertained.

535. Did Mitchell come to you himself upon more than one occasion?—Yes; I had not seen him for a long time, until the case of Azeem Jah was about, and then he came frequently in consequence of being, as I understood, employed in getting up these petitions.

536. Sir *FitzRoy Kelly.*] What is the name of the person who was supposed to have brought the petitions to Marshall from Mitchell?—That I do not know; he was quite a stranger to me.

537. He came to you with them?—He came down the Members' private entrance, accompanied by Marshall.

538. Did you see the letter which the man brought?—I only saw the back of it.

539. Can you tell, from any knowledge which you have acquired of his handwriting, whether that letter is in his hanwriting?—I never saw a syllable of the letter myself, I only saw the plain back of the paper on which the letter was written.

540. Mr. *Bonham-Carter.*] Did the man himself state that he came from Mitchell?—Marshall stated so.

541. Did the man state nothing?—I do not think the man made any remark beyond promising me that the petitions should not be endorsed in a similar manner for the future.

542. Mr. Alderman *Salomons.*] Marshall brought the man to you, in fact?—Yes.

543. Mr. *Bonham-Carter.*] Did you speak to the man?—Yes; I complained of what I considered a transgression of the practice of the House, by Members' names being written on the top of the petitions without their authority.

544. What was the answer that the man gave?—That they should not be done so for the future, or something to that effect. I cannot recollect the exact words, but that was the substance of them.

Mr. *John Marshall,* called in; and Examined.

Mr. *J. Marshall.*

545. *Chairman.*] WHAT is your position in the House of Commons?—Messenger in the Journal Office.

546. Had you any acquaintance with Mitchell during the time he was in the service of the House?—Yes.

547. How long is it since he left?—About eight years, I should think.

548. Did

548. Did you receive any petition from Mitchell with regard to the claims of Azeem Jah?—He sent me a note by a man.

549. When did he send you that note?—About a month ago. I cannot exactly recollect.

550. Before the day appointed for this case coming on?—Yes. I believe they were amongst the first petitions which were presented in the month of March.

551. He sent you some petitions?—Yes.

552. How many did he send?—A man came down to the Journal Office with a bundle of petitions in his hand.

553. A consignment of petitions?—Yes.

554. About how many?—About a dozen.

555. Mr. Alderman *Salomons.*] Did he say who he came from?—He said he came from Mitchell, and he brought a note.

556. Can you identify any of those petitions as being the petitions which were sent by Mitchell?—No; I cannot identify those petitions.

557. Sir *FitzRoy Kelly.*] Were the petitions which were brought to you with this note from Mitchell those which you afterwards delivered to Mr. Cove?—I did not deliver them; I took the man down to Mr. Cove in the waiting-room, and there I left him with Mr. Cove.

558. He brought you a note from Mitchell?—Yes.

559. Is that note in existence, or have you destroyed it?—I have destroyed it; I destroyed it almost immediately.

560. What did it contain?—I can only give you the substance of it; it was merely asking me to put the man in the way of getting the petitions presented.

561. That was a note to you from Mitchell?—Yes.

562. Do you know his handwriting?—Yes.

563. It was a note to you from Mitchell, whose handwriting you are acquainted with, requesting you to put the man in the way of having these petitions presented?—Yes.

564. You accordingly went with the man to Mr. Cove, and the petitions were left with Mr. Cove?—Yes.

565. Do you know who that man was?—No, I do not.

566. You do not know his name?—To the best of my knowledge, I never saw him before.

567. Nor since?—Nor since.

568. Did the letter at all allude to the man, or describe him?—I do not recollect that; it was just as the House was meeting. I was very busy, and I destroyed the note almost immediately. It would be probably on Monday, and to the best of my belief it was about 4 o'clock, just as I was going up-stairs to the Votes and Proceedings Office. I might know the man again if I saw him.

569. You do not know what he was at all?—The man who came to me?

570. Yes?—Not at all.

571. You do not know whether he was Mitchell's clerk, or a messenger, or what?—I have not the slightest idea.

572. Mr. *Bonham-Carter.*] According to your recollection, did either the man state himself, or did Mitchell's letter state who the bearer was?—It must have been in the letter; the man said very little; he merely handed me the note.

573. In that note was there anything which led you to understand that he was employed by Mitchell for the purpose of bringing those petitions?—Decidedly; to the best of my recollection the note said Mitchell was engaged as a Parliamentary Agent in the case of Azeem Jah.

574. It was a note from Mitchell?—It was a note from Mitchell.

575. Mr. Alderman *Salomons.*] Do you remember the number of petitions that the man brought you?—Perhaps eight or nine, or a dozen. He had them under his arm.

576. More than two or three?—From eight to a dozen, as near as I can recollect. He had a bundle of them under his arm.

Mr. *Herbert James Cove*, re-called; and further Examined.

Mr. *H. J. Cove.*
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577. *Chairman.*] YOU have identified those two petitions as being two of those which were brought to you. Are those two of the number of which you have just heard Marshall speak as being brought to you accompanied by this man who came from Mitchell?—The same.

Mr. *John Marshall*, re-called; and further Examined.

Mr. *J. Marshall.*

578. Sir *FitzRoy Kelly.*] DID you know the man who brought these petitions?—No; I never saw the man before. I saw him once subsequently, when he came with a second parcel of petitions on the same subject.

579. Should you know him again?—I cannot say that I have a very good recollection of his face.

580. Do you know Mitchell's handwriting?—Yes, I think I do.

581. Have you any recollection where the letter which accompanied the petitions was dated from?—Cannon-street. I think that was the address.

582. Mr. *Bonham-Carter.*] Have you had any communication personally with Mitchell with regard to presenting any petitions relating to the affairs of Azeem Jah?—Never in my life, nor any other petitions.

583. Since this letter was brought you, did Mitchell himself see you, or has he spoken to you about the petitions?—I have seen him two or three times in the lobby of the House.

584. Previous to the debate, or since the question of the authenticity of the petitions has been raised?—Since the question of the authenticity of the petitions has been raised

585. Sir *FitzRoy Kelly.*] Do you believe that to be in the handwriting of Mitchell (*handing to the Witness the letter which was produced by Mr. Cove*)?—I do.

586. Mr. *Miller.*] Are you quite sure that that is Mitchell's handwriting?—To the best of my belief that is his handwriting.

[*The Letter was then directed to be inserted in the Minutes, and is as follows:*]

"134, Fenchurch-street, E. C.,
"Dear Sir, 13 March 1865.
"WILL you be pleased to let the accompanying petitions be given to the Members for presentation to-night; it is at their request they should be left; and be pleased to get rid of them all, if possible, to-day, as the Azeem Jah case stands for to-morrow. You will much oblige

"Yours, &c.
"Mr. Cove." "*Geo. M. Mitchell.*

George Morris Mitchell, again called in.

G. M. Mitchell.

587. Sir *FitzRoy Kelly.*] YOU gave the Committee the name and address of Mr. Powell Marshall as one of your clerks?—Yes; 28, Weymouth-terrace, Hackney.

588. You stated before that it was 27, Weymouth-terrace; which is it, 27 or 28?—It is 27; I made a mistake in saying 28.

589. Be careful. You also gave the name of a Mr. Whitehead; will you now give Mr. Whitehead's address?—Henry Whitehead, 2, Gloucester-terrace, Victoria Park Road.

590. Can you give the name and address of any other clerk employed by you upon the subject of these petitions?—I can give you the names of some employed by Mr. Strutt.

591. My question was as to the names of your clerks?—No; they employed others, and they can give you the names of the other persons whom they employed.

592. Have you now given the names of all the clerks whom you employed yourself?

yourself?—Yes, I have. Do you want some of the names of the clerks whom Mr. Strutt employed himself?

593. We are content with the names of your own clerks; but you are now proposing to give us the names of somebody else's clerks?—They were persons employed to collect signatures to those petitions. There were printed forms given to them to go about with. There was a person in Watling-street of the name of Paine.

594. Any number?—I do not know the number.

595. *Chairman.*] Watling-street, City?—Yes.

Chairman.] The Committee will now adjourn till Wednesday, when, perhaps, you will be in attendance again.

The *Witness.*] I am very much obliged to you.

Chairman.] It is right I should tell you the position in which the Committee are at present. The Committee, upon the evidence which has been adduced before them, are led to form the opinion that certain petitions emanated from you, and that those petitions, while in your custody, had certain names forged to them. But before making our Report to the House, we will give you an opportunity, if you wish it, of cross-examining Mr. Strutt. If you like to see Mr. Strutt on Wednesday, we will have Mr. Strutt sent for, and his evidence shall be read over to you in his presence.

The *Witness.*] I shall be very glad to meet him indeed. Will you permit me, sir, if I am not out of order, to make this remark: It seems so singular that I should have been selected out of so many persons who have been employed. In the last Session I made an Index to the Votes and Proceedings of the Session, and the Votes being incorrect upon many occasions, I was obliged to correct them; and knowing that the Journals of the House are, perhaps, the most important documents we have, and being obliged upon many occasions to correct——

Chairman.] What has that to do with these petitions of Azeem Jah?

The *Witness.*] I think that has given rise to a little animus upon the part of the gentlemen who compile the Votes and Proceedings.

Chairman.] We cannot go into that. Then we shall see you on Wednesday. I understand you to say you wish for an opportunity of cross-examining Mr. Strutt upon his evidence.

The *Witness.*] No, I have no wish; I shall leave it entirely in the hands of the Committee. I shall be very glad to meet Mr. Strutt at your next meeting.

Chairman.] Then Mr. Strutt shall be in attendance at one o'clock on Wednesday.

Mercurii, 5° die Aprilis, 1865.

MEMBERS PRESENT.

Mr. Bonham-Carter.
Mr. Cox.
Mr. Charles Forster.
Major Gavin.
Mr. Hennessy.
Sir FitzRoy Kelly.
Mr. Taverner John Miller.
Mr. Alderman Salomons.
Mr. Owen Stanley.

CHARLES FORSTER, Esq., IN THE CHAIR.

Mr. *Frederick George Netherclift,* called in; and Examined.

Mr. *F. G. Netherclift.*

5 April 1865.

596. *Chairman.*] WHERE do you live?—17, Mill-street, Conduit-street.

597. What are you by profession?—A Lithographer and Fac-similist.

598. Have you had any experience in comparing handwriting?—For nearly 30 years.

599. Have you, in pursuance of the directions which the Committee gave you when you attended on the former occasion, examined the petitions relating to the claims of Azeem Jah?—I have; I have devoted a whole day to it.

600. Mr. *Miller.*] How many petitions did you examine in all?—Nineteen petitions.

601. *Chairman.*] Have you also examined certain receipts and a letter which were given you?—I have.

602. Have you made yourself personally acquainted with the handwriting of the letter and receipts which were given to you?—I have.

603. Will you give the result of your examination?—My conscientious opinion is, that George M. Mitchell has written nearly one-third, I should say, of the signatures appearing on those 19 petitions that I have examined. He has by disguise and otherwise written hundreds of the said signatures to the petitions.

604. Just take the Pimlico petition into your hand. First, look at the outside. Does that Pimlico petition bear the address or direction to "George Waldegrave Leslie, Esq." on the outside?—Yes.

605. Is that one of the petitions which you so examined?—This is one of them.

606. Does that petition contain signatures, which from the examination that you have described to us, you believe to be in the handwriting of Mitchell?—It does.

607. Mr. *Owen Stanley.*] Do you believe the address "George Waldegrave Leslie" on the outside to be in the handwriting of Mitchell?—That is Mitchell's handwriting

608. *Chairman.*] Do you see the name "Thomas Charles" attached to that petition?—I do.

609. How is it described there?—"Thomas Charles, fishmonger."

610. In whose handwriting do you believe that signature to be?—It is like Mitchell's, but it is better disguised. It is my belief that three hands have been employed upon this, and this may be in one of the other hands.

611. Mr. *Cox.*] The signature of "Thomas Charles, fishmonger," you do not think to be in Mitchell's handwriting?—I cannot say.

612. Sir *FitzRoy Kelly.*] You have stated that there are a number of signatures to each of these petitions which you believe to be in Mitchell's handwriting?—Yes.

613. Will

Mr. F. G. Netherclift. 5 April 1865.

613. Will you refer to the names which will be given to you, and say whether you believe them to be in Mitchell's handwriting. First, look to the name of "Stevenson." Do you believe that to be in his handwriting?—The signature "Stevenson" is in Mitchell's handwriting.

614. What do you say as to "Errington"?—That is Mitchell's also.

615. What is your opinion as to the name of "Hird"?—That is his also.

616. Now, look at the signature "Walter Jones"?—There are some of the elements of Mitchell's writing here; and I believe that this is his also. I can trace his "s," and the manner of forming his "r."

617. Do you believe that to be his handwriting?—I would rather not say positively to this; I do not think one or two letters are quite sufficient to enable me to say.

618. What do you say as to the signature of "Charles Eales"?—It is in the handwriting of the same person who wrote the "Charles" above. I will not speak confidently to that. It is evidently done by the same hand that I traced before, but I will not say that is Mitchell's.

619 What do you say as to the signature "William Ginger"?—That is Mitchell's.

620. That you have no doubt about?—There is no doubt about that, because I trace his peculiar "G," like a "Q." The small "g" and the capital "G" are both his. That is his handwriting, I am certain of it. I see also the name "George Hallett," which is also in his handwriting.

621. You observe the signature "George Hallett," and that you have no doubt is in the handwriting of Mitchell?—I am certain of it. It is very singular, there are about 100 names with the Christian name "George." They all agree. They are all perfect *fac-similes* of each other, just that word "George" alone.

622. Now, look at Mr. Hawes' signature; do you believe that is in Mitchell's handwriting?—Decidedly.

623. Now look at "W. C. Mitchell, builder," in whose handwriting do you believe that to be?—It is written by the same party whom I have spoken of before. I will not be quite positive that that is Mitchell's handwriting.

624. Do you believe the signature, "Thos. Binge," to be in Mitchell's handwriting?—I do, indeed.

625. Now look at "Cobham"?—That is another of the uncertain ones. The next signature is "John Hopwood, ironmonger." I have no doubt about that being in Mitchell's handwriting.

626. In whose handwriting do you believe the signature of "Charles Collins" to be?—That is Mitchell's also, and the one above is his also. I mention the one above, because whenever one of the signatures turns round, the next one is sure to be in the other direction. You will find that to be the case constantly. There are three names following each other, "Thomas Brown," "William Adkins," and "W. S. Young," which are all in his handwriting.

627. You believe all those to be in his handwriting?—Undoubtedly.

628. What do you say to the signature, "Evan Evans"?—"Evan Evans" is the same round hand that I have seen before, but I cannot say it is Mitchell's.

629. Do you see the signature, "William White, 7, Denbigh-place"?—I have no doubt that that is in the handwriting of Mitchell. I am positive of it.

630. Besides the signatures which you have specified by name in the Pimlico petition, are there other signatures which you believe to be in the handwriting of Mitchell?—Here are 25 following each other entirely in his handwriting (*pointing them out*). I think I may venture to assert from my examination of this petition that half of the signatures were written by him.

631. Now take the Westminster petition in your hand. Is that one of the petitions which you have spoken of?—It is.

632. Does that petition bear the address "Sir John Shelley"?—It does.

633. Is that direction, in your judgment, in the handwriting of Mitchell?—Yes.

634. Look at the first name to that petition, "Walmisley"?—I am doubtful as to that.

635. Now look to the signature, "Henry Stone Smith"?—No, I think that is written by the same person who wrote Mr. Walmisley's signature. It has the elements of Mitchell's writing; but it is disguised.

 636. Do

Mr. *F. G. Netherclift.*

5 April 1865.

636. Do you, on that petition, see the name "William Davenport (Pritt & Co.) Great George-street"?—I do.

637. Is the number given?—No.

638. In whose handwriting do you believe that signature to be?—In George Mitchell's.

639. You have no doubt about it?—I have no doubt of it.

640–1. Now look to the signature, "The Rev. John Jennings"?—I believe "The Rev. John Jennings" to be in the same handwriting as the names "Walmisley" and "Henry Stone Smith," but not Mitchell's handwriting.

Mr. *William White*, called in; and Examined.

Mr. *W. White.*

642. *Chairman.*] YOU are Chief Door-keeper of the House of Commons?—Yes.

643. Where do you reside?—9, Denbigh-place, Pimlico.

644. Does that petition purport to be signed by you (*handing the Pimlico petition to the Witness*)?—It says, "7, Denbigh-place." There is no William White, of 7, Denbigh-place.

645. Does it purport to be signed by you?—That appears to be my name.

646. Did you sign such a petition?—Certainly not.

647. Did you give authority to any person to sign for you?—Certainly not; I never heard of the petition.

648. Sir *FitzRoy Kelly.*] Is that signature a forgery?—Quite so; I never signed any petition of the sort.

649. You know that there is no one of your name, or the name of White, living at No. 7, Denbigh-place?—Certainly not.

650. You live at No. 9?—Yes.

651. Mr. *Miller.*] Is that an imitation of your handwriting?—It is not in the least like it.

Mr. *Frederick George Netherclift*, re-called.

Mr. *F. G. Netherclift.*

652. *Chairman.*] NOW will you resume your evidence with regard to the Westminster petition. You have been asked as to four names respectively. Do you believe those four signatures to be in the handwriting of Mitchell?—Yes, they are quite as glaring as the signatures to the other petition.

653. Sir *FitzRoy Kelly.*] About how many should you say are in the handwriting of Mitchell?—I should say that 50 are, to be within compass; but a great many more than that.

654. Fifty and upwards you believe to be in the handwriting of Mitchell?—Yes; there are a great many more than that, but I give that number to be within compass.

655. *Chairman.*] Do those signatures follow each other, or are they interspersed?—They both follow each other and are interspersed. I mentioned just now that there were about 25 all following each other, and others are dispersed.

656. Mr. *Cox.*] I observe that you have been looking at a letter and some receipts. Do you know that the signature to that letter, and the signatures to those receipts, are in Mitchell's handwriting?—They are given to me as such; of course I can only do it by comparison.

657. Allow me to call your attention to the evidence which was given by Mitchell himself: "During the time that I had to do with Mr. Strutt and the petitions, I was suffering from a sprained hand, and, therefore, I could not write; so much so, that I think you will find, if Mr. Strutt will produce the receipts for what small sums of money he has paid me, that those receipts are not in my handwriting"?—The bulk of them were not in his handwriting; there are only two which are in his handwriting, and I picked those out. I discarded the others. This is the original letter, and these are the two receipts which I compared his handwriting with.

658. The judgment you have formed is upon the assumption that those are the original signatures of Mitchell's?—Precisely; I never saw the man write in

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in my life. If that is not George Morris Mitchell's writing, George Morris Mitchell did not put those signatures to the petitions.

659. Have you many other receipts purporting to be signed by Mitchell?—I have seen some which are here.

660. Those you believe not to be in his handwriting?—Certainly not, they are signed by Mitchell. I mean the body of these receipts is not in his handwriting, but I believe the signatures to be in his handwriting.

661. Is that letter which is marked "A." the letter upon which you have founded your opinion and belief as to the handwriting of Mitchell?—It is.

662. That letter is dated 13th March 1865, and signed Geo. M. Mitchell?—Yes.

663. Now look at the receipt marked B, dated January 28th, 1865; is that also one of those upon which you founded your opinion?—Yes.

664. Now look to the receipt marked C, dated 25th of January 1865?—Yes. I did not know that this letter was here.—(*Referring to another letter.*) That is Mitchell's handwriting; it is written finer and clearer, but it is the same handwriting.

665. Just take the St. Martin's Petition into your hand. Do you see the signature George Mitchell?—Yes; the George is written in full here; that is his handwriting. I think I could show you 150 of those "Georges," that is speaking within compass. Those "Georges" are very peculiar.

Mr. *John Marshall*, again called in; and further Examined.

Mr. *J. Marshall.*

666. Sir *FitzRoy Kelly.*] WHEN you were examined before, you had that letter put into your hands (*referring to the letter produced by Mr. Cove*)?—I had.

667. Do you know the handwriting of Mitchell?—Yes.

668. Are you acquainted with the character of the handwriting of Mitchell?—Yes.

669. Are you acquainted with the character of the handwriting of Mitchell sufficiently to enable you to pronounce a confident opinion?—I am quite confident that this is his handwriting.

670. Have you ever seen him write?—Frequently.

671. From what you have seen of his handwriting, you feel confident that that letter is in his handwriting?—I feel quite confident.

Mr. *Herbert James Cove*, again called in; and further Examined.

Mr. *H. J. Cove.*

672. *Chairman.*] ARE you acquainted with the handwriting of Mitchell?—I am not acquainted with his handwriting, but I believe this to be in his handwriting, because, on a subsequent occasion, he came to me and asked me if I had received a letter from him on the subject of the petitions.

673. Sir *FitzRoy Kelly.*] Did you receive any other letters from him, or purporting to be from him, on the subject of those petitions?—None whatever.

674. Or on any other subject?—None whatever.

675. So that he could only have alluded to that letter?—No.

Mr. *Frederick George Netherclift*, again called in; and further Examined.

Mr. *F. G. Netherclift.*

676. Mr. *Owen Stanley.*] WILL you take that letter, purporting to be from Mitchell, signed by "Geo. M. Mitchell," into your hand, and compare that signature with the signatures upon the receipts which you stated before were in Mitchell's handwriting, and state whether you believe them to be in Mitchell's handwriting?—Yes, they are.

677. *Chairman.*] You stated that you examined other petitions besides the two to which your attention has now been called?—I did.

678. About how many?—Nineteen.

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679. Are those nineteen inclusive or exclusive of the two you have spoken of?—Inclusive.

680. I believe you have drawn up a report?—Yes.

681. Be kind enough to read it?—"*In re* 'Azeem Jah.' Report upon my Examination of Signatures attached to Petitions in the House of Commons, praying for the Restoration of Rights and Property, &c. to Azeem Jah: I, Frederick George Netherclift, lithographer, facsimilist, and expert, having received instructions from the Chairman of the Honourable the Committee of the House of Commons specially appointed to inquire into the above matter, do hereby declare that I have most attentively examined the following list of petitions, and have carefully compared the signatures thereto attached with the genuine handwriting of George M. Mitchell, as exhibited in a signature to one of the said petitions, and two receipts for money, and to a letter purporting to be written by the said George M. Mitchell, marked A. My conscientious and unprejudiced opinion is, that the said George M. Mitchell has, by disguise and otherwise, written hundreds of the said signatures to the several petitions; the number that I have examined being 19, viz., Westminster, Pimlico, St. Martin's, Stratford, St. John's Hackney, 490; St. John's Hackney, 593; City of London, 378; City of London, 500; Paddington, 766; Westminster, 349; Romford, 114; City, 564; Barnsbury, Holloway, 965; St. Mary Islington, 818; St. Marylebone, 622; St. Matthew Bethnal-green, 380; Rochester, 277." I have made a memorandum, "very glaring." By "very glaring," I mean that he has been very much at work upon them himself. I traced his handwriting in those two more than any others. I do not suppose he ever went to Rochester at all, and I have no doubt he did it at home. "Finsbury" I have left a blank for the number, because I did not find it stated. I have the remark upon that, "very glaring." Then I go on to say, "The following characteristics of the said George M. Mitchell's writing may be traced throughout the whole of these 19 petitions: the capital P; the capital C; the capital G; the capital S, S, S; the capital J; the capital E; the small g being formed like q, the small y, and finals, &c. I would call particular attention to the Christian name 'George,' of which there are numerous examples throughout the petitions. The identification is most remarkable. It is an observable fact also, that immediately after a sloping or running hand signature, follows one written uprightly, or inclining the reverse way. This occurs over and over again." I can point out numerous instances. "I believe that about three different hands were employed upon these petitions, making, of course, some allowance for many of the signatures being genuine; that is to say, the handwritings of the parties they purport to be." Of course I cannot tell how many are genuine or not. Some may be genuine, and some not genuine. "I cannot identify any other writer save George M. Mitchell, having no handwriting of the suspected parties to compare by. I think from the experience I have gained in examining these petitions, that I am fairly within compass when I express my opinion that at least a third of these signatures were written by the said George M. Mitchell;" of one or two of the petitions I should say he wrote half the signatures to them; but, taking the whole, I should think he wrote about one-third of them. "It appears to me that a number of pens were kept in requisition for the operation of fabricating these signatures; steel pens, and quill pens, coarse and fine, for black ink, and the same for blue ink, to produce contrast. Three or four hands at work, with these materials, could easily manufacture thousands of signatures." The next part of my report refers to a totally different thing. "I have also examined several other petitions got up by another agent. I find in some of these the same hand has written various signatures; though, without comparison, I am not prepared to say by what party. These examples are very numerous, and do not wear so fraudulent an aspect as the others I have alluded to. They may be found in London, 2,083; Devonport, 209; Chiswick and Hammersmith, 2,078; Stoke Newington, 2,085; Lambeth, 1,923; St. Pancras, 2,097; Clerkenwell, 788."

682. All those petitions relate to Azeem Jah?—Yes.

683. Mr. *Bonham Carter.*] Did I understand you to say the signatures to each of these petitions are in the handwriting of one person or of several?—I meant to say that various hands have been at work. I trace several handwritings, perhaps the three again.

684. Do

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684. Do you trace the hand of one person through several of these petitions?—Yes; I should say the hands of two or three agents are throughout those petitions.

685. Then, one handwriting appears in more than one petition?—Yes.

686. Of the same person?—Yes.

687. Several signatures?—Yes; they are not numerous, because I was merely told to glance at them, in case the question might be asked me.

688. Mr. *Miller.*] Do you think that any large number of signatures have been attached to the petition by the other two persons to whom you refer?—I have not gone particularly into that because I have had nothing to compare them by. I thought I was merely employed to trace Mitchell's.

689. Sir *FitzRoy Kelly.*] You state that there appear to be the names of many persons written in the same two handwritings to which you have referred besides Mitchell's?—Yes, there are two other handwritings.

690. Do you think that there are many signatures written by those two persons?—I do.

Mr. *Frederick George Netherclift*, Mr. *John Strutt*, and *George Morris Mitchell*, again called in.

Mr. *F. G. Netherclift*, Mr. *J. Strutt*, and *G. M. Mitchell.*

691. *Chairman.*] (To *Mitchell.*) THE Committee have had evidence that this letter marked A, and these two receipts marked B and C, are in your handwriting; do you wish to make any remark upon that?—(*Mitchell*) (*after examining the same*). These are all in my handwriting.

692. Sir *FitzRoy Kelly.*] The Chairman has called your attention to two or three documents which you had in your hand, and asks you whether you desire to make any observations upon those documents; have the goodness to look at the signature purporting to be your signature to that petition. Evidence has been given that that is your signature?—

693. *Chairman.*] It is merely my duty to call your attention to that fact, and if you wish to make any remark upon it the Committee will hear you; you quite understand that you are not bound to give any information at all. (*Mitchell*)—(*after looking to the petition from St. Martin's*). This is certainly my signature.

694. Do you desire to make any observations in relation to that petition?—No, I do not. This is certainly my signature and the address of my office, 78, Cannon-street West.

695. *Chairman.*] It is only fair I should inform you that the Committee have had Mr. Netherclift, who is an expert, to give evidence before them. If you wish to do so, you shall have an opportunity of cross-examining Mr. Netherclift. Mr. Netherclift states that he has examined 19 petitions, two of which are the Pimlico and Westminster petitions, and he has stated that at least one-third of the signatures to those petitions are in your handwriting?—(*Mitchell.*) Will you allow me to see them, and then I will tell you whether they are or not?

696. *Chairman.*] He has also stated that certain names, which are proved to be forgeries, are also in your handwriting. With regard to the Pimlico petition, Mr. Netherclift has stated that the names of "Binge," "Hopwood," "Collins," "Brown," "Adkins," "Young," and "White" are all in your handwriting?—(*Mitchell.*) I presume you refer to all those that are crossed. Here is one, "Ginger;" here is another, "Watkins, grocer, Warwick-street." What other names do you refer to, sir?

697. *Chairman.*] "William White" is one?—(*Mitchell.*) Here is "George Elliott, fruiterer;" here is "William D. Hawes, Cambridge-street;" there is a mark against that.

Sir *FitzRoy Kelly.*] Mr. Netherclift has spoken with confidence to the names of Binge, Hopwood, Brown, Atkins, Young, Collins, and White.

Chairman.] Clearly understand, that you are not bound to make any remark unless you like to do so; it is only fair that your attention should be called to the evidence which has been given before the Committee.

698. Sir *FitzRoy Kelly.*] The names which are given to you Mr. Netherclift has

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has spoken to with confidence. You have heard what the Chairman has stated, that evidence has been given that that is not Mr. Walmisley's handwriting?—(*Mitchell.*) I do not believe it is.

699. Sir *FitzRoy Kelly.*] Evidence has been given by Mr. Netherclift, who has made himself acquainted with the character of your handwriting from several documents, and amongst others that which you have had in your hand, that he has no doubt whatever that that very signature is in your handwriting?—(*Mitchell.*) Then Mr. Netherclift has made a very great mistake.

700. Sir *FitzRoy Kelly.*] That is the observation you have to make?—(*Mitchell.*) That is my answer. There is not a name on this petition in my handwriting.

701. Sir *FitzRoy Kelly.*] As a matter of fairness to you, we call your attention to these signatures, which have been disproved to be the signatures of the persons they purport to be, and Mr. Netherclift states they are in your handwriting. You are not bound to offer any explanation unless you wish to do so; but if you wish to make any remark upon that evidence, the Committee are prepared to hear what you have to say?—(*Mitchell.*) I think I am bound to make a remark; I think I have a right to say that Mr. Netherclift has made a great mistake.

702. *Chairman.*] Have you any question you wish to put to Mr. Netherclift?—(*Mitchell.*) I should like to ask him a question, sir.

Chairman.] Then you can do so?

703. *Mitchell.*] (To Mr. *Netherclift.*) What reason have you to think or suppose that that is my writing?—(Mr. *Netherclift.*) Because I trace all the elements of your handwriting here.

704. *Mitchell.*] That is my handwriting—(*handing the letter marked A. to Mr. Netherclift*)?—You find the word "Geo.," and sometimes you do it in this way.

705. *Chairman.*] Before you cross-examine Mr. Netherclift, perhaps it would assist you if you were to hear Mr. Netherclift's report read?—(*Mitchell.*) If you please, sir.

The *Chairman* then read Mr. Netherclift's report to Mitchell.

706. *Mitchell.*] (To Mr. *Netherclift.*) I want you to tell me, Mr. Netherclift, whether you see any similarity between the signature here (*referring to the letter marked* A.) and "John Hopwood"?—(Mr. *Netherclift.*) Yes; that is disguised. There is your peculiar "g" in "ironmonger," which you make like a "q."

707. *Mitchell.*] Where will you find another "g" like that; you have seen this letter?—(Mr. *Netherclift.*) I have.

708. *Mitchell.*] Do you see any similarity?—(Mr. *Netherclift.*) Yes, I do.

709. *Mitchell.*] Will you show it me?—(Mr. *Netherclift.*) Yes; that is the style of the character of your handwriting. Of course it is disguised; I do not see any similarity. I am as certain that you wrote that, as I am that you are now in existence.

710. *Mitchell.*] May I ask the Committee to look at those two signatures?—(Mr. *Netherclift.*) There is a "p" like yours; sometimes you make a "p" this way, and sometimes that way; you have two ways of making your "p's." Your "p" here is exactly the same as this; there is the same sharp angle at the top and bottom exactly. Your "g" is most peculiar, it is so like a "q." Of course, I can only judge by comparison. The fairest way to you would be to have two or three more experts, and then compare our evidence.

711. *Mitchell.*] Will you permit me, sir, to ask any Member of the Committee to look at these signatures?—

Sir *FitzRoy Kelly.*] By all means. You had better bring them to the Chairman, and make any observation upon them that you please.

Mitchell.] I want to ask if you see any similarity between the two signatures.

Sir *FitzRoy Kelly.*] You can direct our attention to them, and we will look at them very carefully before we make our report.

Mitchell.]

Mitchell.] Will you take some of the other names, Sir FitzRoy?

712. *Chairman.*] Do you wish to make any remark upon the signature "Thomas Binge"?—(*Mitchell.*) Here is a name, "William Ginger."

Chairman.] If you like to call our attention to any other signatures, we will look at them.

713. Sir *FitzRoy Kelly.*] The Committee will take care to attend to what you have requested, that is, to compare very carefully those signatures with these documents which you have yourself represented to be in your handwriting. Have you any other question which you wish to ask Mr. Netherclift?—(*Mitchell.*) No, sir, I have no further question to ask Mr. Netherclift.

714. Mr. *Hennessy.*] (To Mr. *Netherclift.*) Take into your hand these papers marked "A," "B," "C," and "D," and state to the Committee whether these papers, which purport to be signed by George Mitchell, have been signed by the person who you say forged the signatures to the petitions?—Yes; I have said so. This one, marked "D," I have not seen before.

715. Will you look carefully at that one which is marked "D"? Look at the body of the receipt first?—The body of it is not in the same handwriting as this.

716. The body is not in the same handwriting as the signature?—No.

717. Is the signature in the same handwriting as the signature of the other receipts?—Yes, I believe it to be so, certainly.

718. Will you tell the Committee why you think these three receipts, and that letter, are signed in the same handwriting?—By comparison; because I find all the elements of his writing.

719. Will you describe the elements in detail?—I have described them already in my Report.

720. The Report does not specify the receipts. It merely states that you have examined certain receipts. It says that you have examined a letter marked "A," but it does not say anything about the receipts. Can you give the Committee a little more in detail the reason why you think these four signatures, "Geo. M. Mitchell," signed to the three receipts, and to the letter, are the signatures of the same person?—You mean the signatures of the same person who wrote so many signatures to the petition?

721. Yes?—By comparison, and by my experience as an expert.

722. Can you compare the receipt marked "D" with another receipt, and point out what you term to be any similarity?—The receipt marked "D" I consider is only signed by him.

723. Is there any peculiarity about the signature of the receipt "D" which makes you think that that is in the same handwriting as the signatures which are attached to the other receipts?—Yes; there is the capital "G," which occurs over and over again, and the "M."

724. In fact, you discover in the receipt which is marked "D" the same characteristics which you have described in your report?—Yes; but there is something more which I had to compare with, and that is the signature on the St. Martin's petition. I think the "George" there, and the word "George" is written in full, stamps it as being Mitchell's handwriting. There are many "Georges" among the signatures to the petitions which are *facsimiles* of this; I should think to the number of 100.

725. *Chairman.*] (To *Mitchell.*) Now, Mr. Mitchell, Mr. Strutt is in attendance, if you wish to have an opportunity of cross-examining him. I will first read to you the evidence which Mr. Strutt has given. I will only read the material parts; but if you wish to have a copy of the evidence supplied to you, I dare say the Committee will grant you that request—(*The Chairman read over the evidence of Mr. Strutt*). Mr. Strutt is here, and if you wish to cross-examine him you can now do so?—(*Mitchell.*) First, I wish to tell the Committee that I never represented myself as holding a clerkship in the House of Commons. I never had that honour, and therefore Mr. Strutt is in error when he stated that. (To Mr. *Strutt.*) I believe your name is John Strutt?

Mr. *Strutt.*] I persist in stating that you represented yourself as a clerk in the House of Commons.

Mitchell.] Certainly not.

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Mr. *Strutt.*] And I will support that evidence, if it is necessary, by some gentlemen who were in the office, whom you spoke to and told the same to. That is one of the reasons why I was so anxious to employ you.

Mitchell.] Will you produce them?

Mr. *Strutt.*] You can ask me the question, and I must answer it. I had another reason for employing you; because you said that in your capacity of Clerk to the House of Commons the petitions that you would have to present would be recorded in the Vote papers in full the next day, and that you had the opportunity of doing so. Now you know whether you said so or not.

726. *Chairman.*] (To Mr. *Strutt.*) I will just ask you one question, Mr. Strutt. You spoke about these receipts. Did you see Mitchell sign these receipts?—I believe that I saw Mitchell sign a great many of them, but some of the receipts were sent up to the office by his clerk.

727. Mr. *Hennessy.*] By Mr. Mitchell's clerk?—By Mr. Mitchell's clerk. And, when those receipts were sent I refused to pay any of the receipts except I paid the money to Mr. Mitchell personally; and I bear myself out in this way, because Mr. Mitchell on one or two occasions wrote to me and wished me to make the payments, which I did by cheque payable to order. I refused to make them payable to any person except to Mr. Mitchell; and all those cheques of course passed through my bankers, and have Mr. Mitchell's name upon them.

728. Did you see Mitchell write at that time?—I have seen him write frequently, because he has signed receipts for the moneys that I paid him.

729. Did you see him sign any of those receipts?—Some of them.

730. Can you identify any that you saw him sign?—No; I should not like to say that I can identify any of those particular ones.

731. *Chairman*] Did you ever see Mitchell take a pen in his hand and write during the time he was engaged on the matter of these petitions relating to Azeem Jah?—Certainly.

732. Sir *FitzRoy Kelly.*] During the time that he was getting up these petitions, did you see him actually sign his name?—Oh, yes; upon several occasions.

733. *Chairman.*] (To *Mitchell.*) Have you any other question to ask, Mr. Mitchell?—

734. *Mitchell.*] (To Mr. *Strutt.*) You are agent for His Highness Prince Azeem Jah?—(Mr. *Strutt.*) No.

735. *Mitchell.*] You were?—(Mr. *Strutt.*) Eh?

736. *Mitchell.*] You were?—(Mr. *Strutt.*) Never; I had them done by directions of gentlemen who are agents of him.

737. *Chairman.*] But you were deputed by some of those gentlemen, or by the secretary of the Prince, to get up petitions in favour of his alleged rights?—(Mr. *Strutt.*) Of course I was.

738. Mr. *Mitchell.*] Do you remember upon one occasion when I took you some petitions, you said that a gentleman had seen some of the signatures, and thought with you that many of them were inaccurate?—(Mr. *Strutt.*) I very likely said so.

739. *Mitchell.*] If you had that doubt, why did you not depute me or some other person to go to the persons who were supposed to have signed those petitions, and have ascertained whether they were forgeries or not, before those petitions were presented to Parliament?—(Mr. *Strutt.*) If you remember, just before the petitions were presented, I constantly insinuated that those petitions were not *bonâ fide* or honest, and when your clerk came, I attacked him in the same way.

740. Mr. *Miller.*] You have not answered the question. The question Mitchell asks you is, when you entertained a doubt about the signatures, why did you not send to the parties to ascertain whether they were forgeries?—(Mr. *Strutt.*) Because there was no time to do so. The day I made those observations was a day or two before the motion came on, and it was necessary that the petitions should be presented, and therefore I had no time to do that; but upon many occasions I insinuated that I suspected them not right.

741. *Mitchell.*] (To Mr. *Strutt.*) When did you make those remarks about the petitions?—(Mr. *Strutt.*) I made them upon several occasions.

742. *Mitchell.*] Is that your letter of the 31st of January [*handing a letter to*

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to Mr Strutt); I do not think the motion came on so early as that?—(Mr. *Strutt*.) No, the motion came on in March.

743. *Chairman*.] Do you ask that question with a view to putting that letter in?—(*Mitchell*.) Yes, I put it in.—(Mr. *Strutt*.) I think this letter should be in.

744. *Chairman*.] The question you are asked is whether that is your handwriting?—(Mr. *Strutt*.) Yes, it is.

745. *Chairman*.] Do you put it in?—(*Mitchell*.) Yes, sir.

(*Mitchell then handed in the Letter, which is as follows:*)

"2, Adelphi-terrace, W.C.
"31 January 1865.

"Dear Sir,

"I HOPE you will be most careful about the London petitions, as the gentleman who has seen them makes some very candid remarks, and I am inclined, from what he says, not to require any more signatures.

"I have petitions from Harwich, and am well acquainted with the gentlemen whose names you mention; indeed I was at school with one of them. You need not have sent any papers to Manchester, or the other places, as I have already paid agents there. I have also seen Mr. Potter, and made my arrangements. What I require now from you is to complete the lists in hand, for if we interfere with the other agents, we shall be getting into a difficulty.

"I have not had time to look through the lists you have sent me, but I will do so between this and to-morrow.

"Yours, &c.

"—— Mitchell, Esq."

"*John Strutt*.

746. *Mitchell*.] May I ask you how many persons you employed to get up the petitions in London, and the suburbs, and the country?—(Mr. *Strutt*.) I have already given in the list to the Committee.

747. Mr. *Miller*.] The question Mitchell asks you is, how many agents you had in getting up the petitions in the Metropolis; give the number in the Metropolis first?—(Mr. *Strutt*.) I have given the list in, and if you will refer to that, you will see the number of agents in the Metropolis.

748. Mr. Alderman *Salomons*.] How many London agents had you?—(Mr. *Strutt*.) I should think there were five or six London agents besides Mitchell; there might be one or two more.

749. *Mitchell*.] (To Mr. *Strutt*.) I believe Mr. George Potter was engaged by you in getting up petitions?—(Mr. *Strutt*.) Yes.

750. *Mitchell*.] Did that gentleman go to various parts himself to obtain signatures?—(Mr. *Strutt*.) I am sure I do not know.

751. *Mitchell*.] Or did he employ other persons?—(Mr. *Strutt*.) I do not know, but I believe he employed other agents.

752. *Mitchell*.] I believe Mr. Van Buren was also employed by you to obtain signatures to some of the London and suburban petitions?—(Mr. *Strutt*.) Yes.

753. *Mitchell*.] Do you remember my telling you when you complained of the similarity of the signatures, that I could not hold myself responsible for the accuracy of them, because I had then about seven persons employed in different parts to collect them, and it was not likely I should take the trouble myself?—(Mr. *Strutt*.) I do not recollect that; but I remember latterly, just upon the eve of the motion, that I made some remarks of that kind to you, and you then said you had several people engaged in your employ, and that you would not be answerable for them.

754. *Mitchell*.] Certainly not; that is quite right. Do you remember, Mr. Strutt, my calling upon you one morning, after Mr. Forster had presented the Report from the Public Petitions Committee?—(Mr. *Strutt*.) Yes.

755. *Mitchell*.] You said you had heard there was some bother about the signatures to the petitions?—(Mr. *Strutt*.) I did.

756. *Mitchell*.] What was our conversation upon that occasion?—(Mr. *Strutt*.) I was very much annoyed and disgusted at what I had heard, and I insisted upon your satisfying me that these petitions were legitimate and honest, and I advised you, if you found that they were so, to go down and see Mr. Forster, the chairman; and you promised me that you would go.

757. *Mitchell*.] Do you remember saying to me, that you did not want to be compromised in the matter yourself, and that you had, upon one occasion, some years ago, got into a similar mess about some petition or petitions?—(Mr. *Strutt*.) I told you I was most anxious to get these petitions properly and *bonâ fide*

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fide presented. I told you that I had had experience, in the course of my long practice, of the necessity of adhering to the truth upon matters connected with petitions. I then told you the circumstance of my having been called before the House, years ago, upon the very subject of presenting petitions; and I explained it to you, and told you all the circumstances connected with it.

758. *Mitchell.*] I do not remember the circumstances, but perhaps the Committee would like to know them?

759. *Chairman.*] No, that has nothing to do with the present inquiry; we must really limit the inquiry to the matter in question?—(Mr. *Strutt.*) There is nothing that I desire to keep from the Committee, or that I do not wish fully to explain.

760. *Chairman.*] We really cannot go into that?—(Mr. *Strutt.*) I have been for 30 years engaged before the House of Commons, and particularly upon matters connected with petitions, election petitions, I may say, more than any others.

761. *Chairman.*] We cannot go into that; we must limit the inquiry to the matter in hand. Have you any question, Mr. Mitchell, to put to Mr. Strutt?

762. *Mitchell.*] Do you remember that I called upon you after seeing Mr. Forster?—(Mr. *Strutt.*) Yes; you told me that you had seen Mr. Forster, and that Mr. Forster expressed his great regret that he should have gone so far with the matter, and that there was an end to it.

763. *Chairman.*] Upon the former occasion I stated that I never used any expression of the kind; I told Mitchell when he came to see me that I could not hear anything from him except in the presence of the Committee.

Mr. *Strutt.*] Then I think I should know, after the statement he has made, what Mitchell's remarks upon that were.

Chairman.] No, the Committee think they cannot go into that.

764. *Mitchell.*] I have not seen Mr. Strutt since the morning that I saw him in his bed till I saw him in the corridor to-day; and when I called upon Mr. Strutt to let him know the result of my interview with you, sir, I got this letter from Mr. Strutt's office; will you allow me to read it? (To Mr. *Strutt.*) Do you know the handwriting?—(Mr. *Strutt.*) It is the handwriting of a gentleman in my office.

765. Sir *FitzRoy Kelly.*] Is there a date to it?—(*Mitchell.*) There is no date. This is the letter: "Dear Sir,—Mr. Strutt saw a gentleman from the House of Commons yesterday, and thinks it best for the present not to see, or to have any business transactions with you. This is not meant in an offensive sense."

766. *Chairman.*] (To Mr. *Strutt.*) Is that in your handwriting?—(Mr. *Strutt.*) No, it is not. It is in the handwriting of a gentleman in my office.

767. Sir *FitzRoy Kelly.*] What is your object in putting that in?—(*Mitchell.*) My object is to prove that I had not seen Mr. Strutt since; and I repudiate what he is now saying, after my having communicated with the Chairman that Mr. Forster regretted very much that he had gone so far, and that I had brought that message to Mr. Strutt.

768. *Chairman.*] You want to prove, by putting that in, that you could not have said so?—(*Mitchell.*) I want to prove that I could not possibly have said that to him, because I have not seen Mr. Strutt since.

Mr. *Strutt.*] I got a letter from you stating those very facts which I have put in evidence.

769. *Chairman.*] (To *Mitchell.*) The Committee do not like to stop you, seeing the position in which you appear before us; but this does not bear upon the question which is referred to us. It is quite irrelevant whether you saw Mr. Strutt or not. The question before the Committee is, who forged these signatures? You want to put this in, in order to show that you could not have said what Mr. Strutt represents?—(*Mitchell.*) Yes.

Mr. *Strutt.*] Then my answer to that is the letter which I put in the other day, in which he stated that very fact.

Chairman.] We have got that already.

770. *Mitchell.*] Will the Committee permit me to ask Mr. Strutt this question?—(To Mr. *Strutt.*) I believe you are acquainted with Mr. Wyatt, a solicitor?—(Mr. *Strutt.*) Yes.

771. *Mitchell.*]

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771. *Mitchell.*] I employed Mr. Wyatt to apply to you for a certain amount; and I believe he saw you, at your request, personally at your office?—(Mr. *Strutt.*) I have put Mr. Wyatt's letter in before the Committee, in which he applied to me for payment. It is upon the records of the Committee.

772. *Mitchell.*] Did you write to Mr. Wyatt last Saturday to tell him you wanted to see him upon most important business?—(Mr. *Strutt*). Very likely, but it was not upon this business.

773. *Mitchell*]. Did you see Mr. Wyatt on Monday morning?—(Mr. *Strutt.*) Mr. Wyatt came to me on Monday morning.

774. *Mitchell.*] Not at my request?—(Mr. *Strutt.*) If I state what Mr. Wyatt said to me it will be the worse for you.

775. *Mitchell.*] I hope you will state everything, because Mr. Wyatt never went to your place on Monday at my request.

Chairman.] Clearly we cannot have that, because that is hearsay evidence, what one person said to another.

776. *Mitchell.*] Did you send Wyatt down to me before the Committee met, to advise me to tell the Committee that I was guilty of the charges that had been brought against me, and that Sir FitzRoy Kelly was a personal friend of yours, and that you were free in consequence, and to throw myself upon the mercy of the Committee?—(Mr. *Strutt.*) My answer is, certainly not. Now, I must give an explanation of this. Mr. Wyatt came to me on Monday morning; he stated that he came to me at your request, and that you were to wait downstairs in order that you might know whether I would see you. I refused to see you, but I advised Mr. Wyatt to recommend you to go down to the Committee, to see the Chairman, and to acknowledge your guilt; and why I told him to do that was because Mr. Wyatt in confidence told me that you had admitted your guilt, and that you had forged those signatures. You know you asked me the question, and I have given the answer.

777. *Mitchell.*] I believe Mr. Wyatt returned to you in the evening of last Monday?—(Mr. *Strutt.*) Mr. Wyatt came to me in the evening upon other business that he had with me, business which had been going on for the last six or seven years; it was not at all connected with your case. But when Mr. Wyatt made that representation to me which he did, I did everything that I could to induce you to come down here, and throw yourself upon the mercy of the Committee. I have acted as your friend from beginning to end.

778. *Chairman.*] (To Mr. *Strutt.*) What is Mr. Wyatt's address?—(Mr. *Strutt.*) Mr. Wyatt's address is 17, Great Carter-lane, Doctors' Commons. The address is on the letter which I put in evidence.

779. *Chairman.*] What is his Christian name?—(Mr. *Strutt.*) James Wyatt.

780. *Mitchell.*] I believe at the dinner table you deputed Mr. Wyatt to see me again on the Tuesday morning?—(Mr. *Strutt.*) I did nothing of the kind. Mr. Wyatt came to my house. I have known him these 30 years, and he dined with me. I do not see what right you have to talk about conversations with Mr. Wyatt at my dinner table.

781. *Mitchell.*] How many years have you known Mr. Wyatt?—(Mr. *Strutt.*) Thirty, I should think.

782-3. *Mitchell.*] Mr. Wyatt was your confidential solicitor many years ago, when you were resident at Malta, I think?—(Mr. *Strutt.*) Well, he might have been.

784. *Mitchell.*] What I want to show is this—that it appears to me there are two clever solicitors, Mr. Strutt and Mr. Wyatt, and it appears to me that there is a little collusion between them. I want to show that after many years of friendship there was a desperate quarrel, and I am told they have not been friendly until very lately for many years?—(Mr. *Strutt.*) I am not aware that I have ever been unfriendly with Mr. Wyatt.

785. *Chairman.*] What is the object of that question?—(*Mitchell.*) The object is to show that Mr. Strutt, who is the agent or person employed to get up these petitions, and who is the responsible man for them, has tried to throw the onus entirely upon me.

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Chairman.] I do not see how the line of examination you have pursued proves that.

Mitchell.] I am not responsible for those persons whom I employed to get signatures. I told Mr. Strutt so. I beg to assure the Committee that I have no knowledge of any of the signatures which are attached to the petitions being inaccurate, neither were they attached to those petitions when under my control. I beg to suggest to the Committee, that if Mr. Strutt had a doubt as to the genuineness of the signatures, that he ought to have made the necessary inquiries before they were presented to Parliament. Mr. Strutt being the agent in the case, I venture to suggest he is responsible for such neglect. These are copies of the petitions that were sent out by persons who were engaged to get signatures to the petitions to show to the parties signing them (*handing in a printed paper*).

786. *Chairman.*] Have you any other question to put to Mr. Strutt?—(*Mitchell*). No, sir.

787. Mr. Alderman *Salomons.*] (To Mr. *Strutt.*) Did you employ Mr. Potter and Mr Van Buren to get up any signatures to the petitions?—Yes.

788. Have they been paid for those signatures?—One was paid for the signatures, and the other was not paid for the signatures; I have stated that in the list that I gave the Committee the other day.

789. Mr. *Miller.*] Were the whole of the 24 agents paid for getting up the petitions?—You will see if you look through that list that several gentlemen were not paid.

790. How many were paid?—I suppose there would be three or four who were not paid.

791. Mr. *Hennessy*]. (To *Mitchell.*) I put into your hands the receipts marked "B," "C," and "D," and a letter marked "A" (*handing the same to the Witness*). Those are documents which you had in your hand in the early part of the day. Will you now tell the Committee, if you have no objection to do so, which of those documents are signed by you?—

Sir *FitzRoy Kelly.*] It is better that you should understand, upon the part of the Committee, that you are not called upon or desired to answer any question whatever; but you are quite at liberty to make any statement upon any matter connected with the inquiry.

792. *Chairman.*] Having your attention called to those documents, do you wish to make any remark?—(*Mitchell*). I should be very pleased and very glad to do so.

793. Sir *FitzRoy Kelly*]. Mind, we do not call upon you to do so; you do so of your own accord, and not from any wish of the Committee?—(*Mitchell*). But I am called upon to do so.

794. Sir *FitzRoy Kelly.*] If you think you are called upon by a sense of duty to yourself, by all means do so?—(*Mitchell.*) Letter "C" is in my handwriting.

795. Mr. *Hennessy.*] Is the body of the receipt in your handwriting?—(*Mitchell.*) Yes, that is in my handwriting. The receipt marked "B" is in my handwriting.

796. Mr. *Hennessy.*] And the body of the receipt also?—(*Mitchell.*) Yes.

797. Mr. *Owen Stanley.*] What are the dates?—(*Mitchell.*) Letter B is dated 1st February, and letter C, 25th January; the receipt marked "D" is not in my handwriting.

798. Sir *FitzRoy Kelly.*] That is not signed by you?—(*Mitchell.*) No, it is not.

799. Mr. *Hennessy.*] Now look at the next document?—(*Mitchell.*) That is my writing.

800. Mr. *Hennessy.*] What is that marked?—(*Mitchell.*) That is a letter marked "A."

801. Mr. *Cox.*] Now look at that letter (*handing a letter marked "E" to the Witness*), and state to the Committee whether you have any observation to make upon that?—(*Mitchell.*) This is a letter marked "E." That is not in my handwriting, but the signature is, and "John Strutt, Esq." is in my handwriting.

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[*The letter marked "E" was here directed to be inserted in the Minutes, and is as follows:*]

"Sir, "78, Cannon-street, 11th February 1865.

"I SEND you two petitions, one Stratford, another Leyton (adjoining). I have gone to Ilford for that petition, and will be with you on Monday, 12 o'clock.

"I send account, and beg of you to give the bearer a cheque; I have left the amount open, being country petitions, and shall feel very much obliged by your making the amount of the cheque 4 *l.*, which will be arranged in the next petition.

"I shall be in town in the evening, and have appointed with bearer to meet me with cheque at six o'clock.

"Yours truly,

"John Strutt, Esq. (signed) "*Geo. M. Mitchell.*"

Chairman.] Mr. Mitchell, you are at liberty to make any observation you think fit respecting that letter, but I repeat the caution which I have already given to you, that anything you may say will be taken down, and may be used against you.

Mitchell.] I will look at the handwriting, and will tell you in a moment.

Sir *FitzRoy Kelly.*] The Chairman has stated to you that you are not bound to say anything unless you please, but that you may say anything you like upon that letter.

Mitchell.] I do not at the moment remember this handwriting. I had so many persons assisting me at this time. I am the proprietor of three Parliamentary works. I have been very hard at work upon them, and have been employing a great many persons. If I can call to my mind who wrote this, I shall be very glad to give you his name. This is not my writing, but the signature is mine.

Sir *FitzRoy Kelly.*] That is, you signed it, but the body of the letter was written for you.

Mitchell.] I do not know in whose handwriting it is.

802. Mr. *Hennessy.*] (To Mr. *Strutt.*) You have stated that you have seen Mr. Mitchell sometimes sign documents?—Yes.

803. Can you say whether you saw him sign these documents, or not. I put in your hands the receipts marked B, C, and D, and the letter marked A?—I cannot say that I have seen him sign these. I may have seen him, and I may have not. Sometimes the receipts were sent on the day before they were paid, and sometimes they were paid the day that he called.

804. Mr. *Cox.*] (To *Mitchell.*) Then the documents have been handed in to the Committee by Mr. Strutt. I now put them in your hands with the remark that you are at liberty to make any observation upon them that you like. Do you wish to offer any explanation?—(*Mitchell.*) The signature to the receipt marked with the letter F is mine, but the body of the receipt is not.

805. Mr. *Cox.*] Now take G?—(*Mitchell.*) The signature is mine, but the body is not, neither are the amounts.

806. Mr. *Cox.*] Now take H?—(*Mitchell.*) The words "M. Mitchell" are mine, but I question whether the words "Received, Geo." are mine. The account is not mine.

807. Mr. *Cox.*] I?—(*Mitchell.*) The signature to that is in my handwriting.

808. Mr. *Cox.*] K?—(*Mitchell.*) The signature to that is in my handwriting.

809. Mr. *Cox.*] L?—(*Mitchell.*) There is no signature to this at all. The word "Received" I think is mine.

810. Mr. *Cox.*] M?—(*Mitchell.*) Yes, that is my writing.

811. Mr. *Cox.*] N?—(*Mitchell.*) That is my signature.

812. Mr. *Cox.*] O?—(*Mitchell.*) That is my signature, but not my letter. Those are all.

813. Sir *FitzRoy Kelly.*] Before you go, Mr. Mitchell, I wish, in the name of the Committee, once more to state this to you. You have mentioned the names of two of your clerks?—(*Mitchell.*) One clerk.

814. Sir *FitzRoy Kelly.*] I thought you mentioned the names of two persons?—(*Mitchell.*) One clerk, and one a private friend of mine.

815. Sir *FitzRoy Kelly.*] Before you go, it is necessary that you should distinctly

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tinctly understand on the part of the Committee that if you desire to examine either of these two persons as your witnesses, and bring them here to testify to anything whatever on your behalf, that the Committee are quite ready to hear them?—(*Mitchell.*) I do not think I have any questions to ask them. I assisted the messenger to find them, thinking you had made an order upon them, and I secured their attendance here to-day.

816. Sir *FitzRoy Kelly.*] These two persons to whom you are referring are here?—(*Mitchell,*) Yes.

817. Sir *FitzRoy Kelly.*] You are aware that you yourself have said that while you were engaged in getting up these petitions they acted for you in getting up these petitions?—(*Mitchell*). Yes; they employed other persons, who were men out of occupation, for the purpose. However, they can answer for themselves, if you like to examine them.

818. Sir *FitzRoy Kelly.*] As these petitions have been traced to your hands, and from you have found their way into the House of Commons with a number of fictitious signatures affixed to them, it is for you to say whether you think fit to call these persons, or either of them, or any person whatever, to testify to anything that may have taken place in respect to those petitions while they were under your control, or while anybody was acting in respect of them under your direction?—(*Mitchell.*) I do not consider, Sir FitzRoy, that the petitions were at all under my control.

819. Sir *FitzRoy Kelly.*] I do not assume that; it is only that they came into your hands, and you seem to have employed these persons to deal with them, from what you yourself say, whether under your control or not; during the time of that employment something may or may not have been done with them that was not of a proper character; if you desire to call these persons as your witnesses, to show that whatever was done was done at least while they had the care of them, or somebody under them had the care of them, so as to exonerate you as to what was so done, you are quite at liberty to do so?—(*Mitchell.*) I would rather the Committee examined them.

820. Sir *FitzRoy Kelly.*] You must not dictate to the Committee what course they are to pursue. The Committee will examine such witnesses as they think fit. We merely say to you, while they happen to be here, before the inquiry is closed, that if you desire (that is entirely for yourself to judge of) to examine them, or call upon them to make any statement in relation to those petitions, we are ready to hear them. Of course you will exercise your own discretion entirely?—(*Mitchell.*) Is it the wish of the Committee?

821. Sir *FitzRoy Kelly.*] We cannot answer any question of that kind. It is entirely for you. These petitions come to your hands, and these petitions passed out of your hands with fictitious signatures. It is for you, if you think fit, to account for anything that appears upon them of an irregular character; and if you can show that by either of these persons, the Committee are quite ready to hear them?—(*Mitchell.*) They were returned by me to Mr. Strutt, and every petition, I believe, was examined by him, and I took them from Mr. Strutt at his request, to get them presented.

822. Sir *FitzRoy Kelly.*] So you have stated?—(*Mitchell.*) Yes.

823. Sir *FitzRoy Kelly.*] We need not detain you any longer. We have told you that if you desire to call these persons as witnesses you may do so?—(*Mitchell.*) I will call them if you desire it. What am I to ask them?

824. Sir *FitzRoy Kelly.*] Have you any other remarks you wish to make?—(*Mitchell.*) No, I do not know that I have. If the Committee desire it, I will call the evidence.

[The Room was ordered to be cleared.

George Morris Mitchell, again called in.

G. M. Mitchell.

825. Mr. *Hennessy.*] (To *Mitchell*). I AGAIN place in your hand the receipt marked with the letter D. Have you any remark to make upon that. That is the receipt which you said was not signed by you?—(*Mitchell.*) It is not in my handwriting, most certainly; it may be in the handwriting of my clerk who is outside.

826. Mr. *Hennessy.*] What is his name?—(*Mitchell.*) Marshall.

827. Mr. *Hennessy.*] Did you ever authorise him to sign a receipt for you?—(*Mitchell.*) Very often.

828. Sir

828. Sir *FitzRoy Kelly.*] You see, Mr. Mitchell, the Committee, for the reasons they have assigned to you, desire not to put any questions to you, because they do not wish to call upon you to answer any questions whatsoever; but you are quite at liberty, if you please, to give any information which you think fit to the Committee. You may, therefore, if you think fit, tell us whose handwriting it is; or, if you are doubtful about it, you may tell us whose handwriting you believe it to be; or you may tell us whether it was written with your authority or without your authority. At the same time, recollect that you are not bound to tell us anything?—(*Mitchell.*) I have often given my clerk authority, not only to write my letters, but to sign them, and he has very frequently done so. This is very like his writing. I know that all the other signatures are my own. *G. M. Mitchell.* 5 April 1865.

829. Sir *FitzRoy Kelly.*] Is he in attendance?—(*Mitchell.*) He is here by order of the Committee. Why I requested him to sign a great many of these receipts and letters was, because I was laid up with a sprained hand, and I could not write myself, and very many occasions you will see how badly the signature is written to this one marked with the letter "C." Then again the signature to the receipt marked with the letter "B" is not a very good signature.

830. Sir *FitzRoy Kelly.*] The remark might be made, which is *primâ facie*, that there is a certain general resemblance between that signature which you call the signature of your clerk and those other signatures. If you have any observation to make upon that you can make it?—(*Mitchell.*) Perhaps having signed my name so often he may have got into my way of writing. If you notice the word "Geo.," the formation of the "G" is very like mine, only it is a little more bold.

Powell Marshall, called in; and Examined.

831. *Chairman.*] WHAT is your name?—Powell Marshall. *P. Marshall.*

832. What are you?—I am a draughtsman on wood at present. I have been clerk to Mr. Mitchell.

833. Where do you live?—27, Weymouth Terrace, Hackney.

834. Are you now in the employment of Mitchell?—I am not at present.

835. When were you last in his employ?—I have left his employ about a fortnight or three weeks.

836. It is right I should tell you that evidence has been given to the Committee to show that you were employed in getting up these petitions. Perhaps I had better read to you Mr. Mitchell's evidence on this point. Mr. Mitchell is asked: "Having looked at them, remembering what I have already stated to you, the charge against you is, that while that petition was in your hands, or under your control, those signatures were affixed to it, which turn out to be fictitious signatures. I have only to say on behalf of the Committee, that if you have any explanation to offer, or any statement whatever to make, the Committee will be very ready to hear it, and avail themselves of it. You will only be good enough to remember, as I understand the Chairman has already notified to you, that any statement you may make may be used hereafter against you? Yes. Well, sir, I have simply this to say, that I had very little to do with those petitions, and during the time that I had to do with Mr. Strutt and the petitions, I was suffering from a sprained hand, and, therefore, I could not write, so much so, that I think you will find, if Mr. Strutt will produce the receipts for what small sums of money he has paid me, that those receipts are not in my handwriting. If you want any further information, my clerk had better be subpœnaed. *Chairman.*] Then, you had better give the name of your clerk? Powell Marshall, 27, Weymouth-terrace, Hackney." Now, Mr. Marshall, if you wish to make any statement, or offer any explanation with regard to that evidence, the Committee are willing to hear you, but it is right I should tell you that anything you may say will be taken down, and may be used against you. Bearing that caution in mind, are you desirous of offering any explanation?—With respect to a great many of the petitions, I used to give them out to men to take round for signature, and I used to pay them so much for getting a certain number of signatures. I never took any round myself. I used to paste them together as they brought them in. I pasted them on, and placed the signatures together. I used to take them to Mr. Strutt very often. Sometimes Mr. Mitchell took them up, and sometimes myself, more often myself.

P. Marshall.

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837. Sir *FitzRoy Kelly.*] You are aware that evidence has been laid before the Committee, that petitions which came into the hands of Mr. Mitchell unsigned, passed out of his hands signed with a great many signatures, which appear to be now fictitious, and that Mitchell has stated several of those petitions were placed in your hands for you to procure signatures; and that these same petitions now purport to contain the signatures of a great number of persons who have come forward and proved that they are not their signatures. Evidence likewise has been given, that a great number of these fictitious signatures are in the handwriting of one person; and a great number of other signatures are in the handwriting of some other second person; and a great many other signatures are in the handwriting of some third person. Mr. Mitchell having had the petitions, it has been suggested, and there has been evidence given, that several of them appear to be in his handwriting. He has named two other persons, yourself, and another person. The suggestion is, I do not say it is the truth, but I tell you what the charge is, that you may be one of those persons who have affixed a certain number of these fictitious signatures which appear to be all in the same handwriting. The question is, under those circumstances, such being the state of the evidence, whether you have anything to say yourself, either in explanation, or in denial, or anything else. The Committee are ready to hear anything you have to say, although we do not call upon you to say a word unless you think fit?—I did not take any of the petitions out myself to get signatures. I gave them out. I had other work to do in the office. I never took the petitions out at all myself.

[The room was again cleared.

Mr. *Frederick George Netherclift*, *Powell Marshall*, and *George Morris Mitchell*, were again called in.

Mr. *F. G. Netherclift*, *P. Marshall*, and *G. M. Mitchell.*

Sir *FitzRoy Kelly.*] (To *Marshall.*) LET me call your attention to Mr. Netherclift's report, which has been put in evidence. You are about to have a paper with a signature purporting to be the signature of Mitchell put into your hands, but which he says is not his signature. Before you make any observation upon it, hear what the Chairman is about to read to you. (*The Chairman then read Mr. Netherclift's report to Marshall.*)

Chairman.] I repeat the caution which I gave you before, that you are not at all bound to answer any question, but the Committee will listen to any explanation you may think proper to offer.

Sir *FitzRoy Kelly.*] You are quite aware the charge is, that there are a number of fictitious signatures to these petitions; that these fictitious signatures are in the handwriting of three different persons, one of whom is Mr. Mitchell, and that Mr. Mitchell himself has said that several of these petitions were put into your hands, and several of these petitions contain, besides those which are suggested to be in his handwriting, fictitious signatures in the handwriting of some other person or persons. Therefore you must be quite aware of the possible consequence of anything you may choose to say before you do so, if you think proper to say anything. Bearing in mind what I have said to you, you will now listen to the question which is about to be put to you.

838. Mr. *Hennessy.*] Here is the receipt marked D, referred to in that portion of the evidence of Mr. Mitchell which was read to you by the Chairman, and the signature to which receipt Mr. Mitchell states is not in his handwriting, but thinks it is in your handwriting, written by you upon his authority. Have you any remark to make upon this document (*handing the receipt marked* D *to the Witness*)?—That is my handwriting.

839. Mr. *Cox.*] Can you give the names of the persons to whom you entrusted the petitions for the purpose of obtaining signatures thereto?—I can give you a few of the names. I do not know them all. There is one man of the name of Moss, and a man of the name of French.

840. Mr. *Miller.*] What is the Christian name of Moss?—I do not know their Christian names at all.

841. Can you give their addresses?—I do not know their addresses.

842. Have

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842. Have you been in the habit of signing Mitchell's name?—I have lately. While he was suffering from a bad finger, and was unable to write himself, he has several times asked me to write notes to Mr. Strutt, and sign them in his name, and receipts as well.

843. When you signed those receipts, did you put down on the paper, "for George Mitchell," writing your own name as well as his?—No; I signed the name "Geo. Mitchell," or "G. Mitchell."

844. Without looking at those papers, can you give the dates of any receipts which you signed, to which you put Mitchell's name?—No, I cannot give the dates. It was some four or five weeks ago, I think.

845. Not more than four or five weeks ago?—I think not.

846. Do you remember when Mitchell suffered with his hand?—I cannot exactly remember the time. It was during the time that these petitions were about. I recollect one day I went to Mr. Strutt. He wanted particularly to see Mitchell, and I went to fetch Mitchell, and then he had his arm in a sling. I cannot speak to the exact day.

847. Would that be as much as two months ago?—I cannot remember the time. I should think it might be.

848. What is the utmost time that you think it is that he has been disabled from signing?—Well, I think it was about a fortnight after he commenced getting the petitions for Mr. Strutt.

849. When would that be?—I should suppose that would be about three months ago.

850. Mr. *Hennessy*.] It has been given in evidence that Mitchell signed his name thus: "Geo." for "George;" then "M.," and then "Mitchell." Is that the way in which you signed his name to the receipts?—I have done so. This is my signature to the receipt marked "D."

851. Mr. *Owen Stanley*.] Did you sign more than one receipt for Mitchell?—I signed four or five.

852. Mr. *Miller*.] Just look at the other two, and tell me whose signatures they are?—That is mine, marked "D."

Mitchell.] Would the Committee like to see that letter which was produced?

Sir *FitzRoy Kelly*.] If you choose to do so, as this gentleman is here, you are quite at liberty to ask him any legitimate question you please.

Chairman.] Is there any observation you wish to make bearing upon this case.

Mitchell.] No, sir; but you appear to be anxious to know whose signature it is.

Marshall.] The letter dated March 17th, and marked with the letter "O" is my writing.

853. Sir *FitzRoy Kelly*.] (To *Marshall*.) From whom to whom does that letter purport to be?—That is from Mr. Mitchell to Mr. Strutt.

854. *Chairman*.] Did you write it or did Mitchell write it?—I wrote it.

855. Mr. *Miller*.] Whose signature is it?—That is Mr. Mitchell's signature.

856. *Chairman*.] Is that the letter describing Mr. Mitchell's interview with me?—(*Mitchell*.) It is, sir.

857. *Chairman*.] Have you any more questions to ask?—(*Mitchell*.) Nothing more, sir.

858. Mr. *Miller*.] (To *Marshall*.) Was Mitchell disabled at the time this letter was written; was that the reason why you wrote that letter?—No, not this one.

Henry Whitehead, called in; and Examined.

H. Whitehead.

859. *Chairman*.] WHAT is your name?—Henry Whitehead.

860. What are you?—I am nothing at present; I am independent.

861. Where do you live?—No. 2, Gloucester-terrace, Victoria Park-road.

862. The Committee have had evidence before them that you were employed under Mr. Mitchell in getting up certain petitions relating to the case of Azeem Jah. We have had evidence that these petitions contain forged names, and

H. Whitehead.

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that those forgeries are in the handwriting of three different people. One has been suggested to be Mitchell's, another to be the handwriting of some person at present unknown, and a third also to be the handwriting of a person unknown, That being the case, have you any remark which you wish to make, or any explanation to offer. I should tell you that you are not bound to say anything unless you like, and that anything you do say will be taken down and may be used against you?—I had something to do with one of the petitions, and that is the one to which my own name appears, and, in consequence of that, many of my own friends; but I do not know to what particular petition you refer.

863. Do you know which of the petitions your name is signed to?—Yes, I do.

864. Which is it?—The City petition.

865. Sir *FitzRoy Kelly.*] Is that the petition which you have been speaking of (*referring to a petition which was placed in the Witness's hands*)?—Yes, it is.

866. What the Chairman has intimated to you is this, that with respect to that petition, as well as a great many others, it has been proved to have come into the hands of Mitchell. Mitchell has said that he placed several petitions, and it may possibly have been that among others, in the hands of two other persons, Marshall and you, in order to obtain signatures. It turns out that a very great many of the signatures to that petition, as well as the signatures to several other petitions, have been forged, and forged in great numbers by three different persons. There are three different handwritings; one has been suggested to be Mitchell's; another to be the handwriting of another person; and a third it is suggested as being possible to be yours. Therefore, that petition being put into your hands, you may look at as many signatures as you please, and if you have any explanation to offer, or wish to make any statement, the Committee are prepared to hear it?—I have nothing further to say than that I got up a great many signatures for the City petition. Here is my own, and a great many others which I also got to the City petition.

Mr. *Frederick George Netherclift*, again called in; and further Examined.

Mr. *F. G. Netherclift.*

867. *Chairman.*] JUST look at that petition (*handing the City petition to the Witness*). Is that one of the 19 petitions which you examined?—Yes, it is.

868. Sir *FitzRoy Kelly.*] Is that one in which you found a great many signatures in the same handwriting, and a great many others in another handwriting, and a great many others in a third handwriting?—Yes, there are the same peculiarities which I have traced before in the handwriting. That is one of them. I wish to make an explanation with regard to the receipt marked D. It is merely this, that the receipt was hastily put into my hands, and I beg to say that I did not compare it.

869. *Chairman.*] I understood you to say before that when you made your comparison the receipt marked D was not then in your possession?—No.

870. You were asked upon a mere cursory examination to give an opinion upon it?—Yes; but I still hold to my opinion.

871. Sir *FitzRoy Kelly.*] The opinion which you gave as to a great number of these fictitious signatures being in the handwriting of Mitchell was not formed at all with reference to this receipt marked D; you had not seen it at that time?—I had not seen it then. My opinion was formed from the papers marked A, B, and C, and the signature to the St. Martin's petition, particularly the word "George," which is written in full there.

872. Mr. *Miller.*] Be good enough to take these two papers into your hand, the letter marked O, and the receipt marked D, and state whether the signature of the receipt marked D is written by the same person as the body of the letter marked O?—I believe the signature to that note to be Mitchell's, and the body of the receipt to be the other man's.

873. Sir *FitzRoy Kelly.*] You say the signature to the receipt you believe to be Mitchell's, and the signature to the note also?—Yes.

874. And the body of both to be in the handwriting of some other person?—Yes.

Jovis, 6° die Aprilis, 1865.

MEMBERS PRESENT.

Mr. Bonham-Carter.
Mr. Charles Forster.
Major Gavin.
Mr. Hennessy.
Sir FitzRoy Kelly.
Mr. Taverner John Miller.
Sir Colman O'Loghlen.
Mr. Alderman Salomons.
Mr. Owen Stanley.

CHARLES FORSTER, Esq., IN THE CHAIR.

Henry Hunt, Esquire, called in; and Examined.

H. Hunt, Esq.
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875. Mr. *Owen Stanley.*] HAVE you signed any petition at all in favour of Prince Azeem Jah?—No.

876. If your name appears to any petition in favour of His Highness or his claims, then that is a fictitious signature?—No doubt.

877. *Chairman.*] You gave no authority to any person to sign for you?—Certainly not.

Mr. *Frederick George Netherclift*, again called in; and further Examined.

Mr.
F. G. Netherclift.

878. *Chairman.*] YOU were desired before the breaking up of the Committee yesterday to take with you the receipt marked "D," and the other receipts, with a view to instituting a further comparison of the handwriting?—I was.

879. Have you done so?—I have.

880. Have you, as the result of such comparison, any further evidence or explanation to offer the Committee?—I cannot conscientiously recall my former opinion with regard to this signature. My opinion is still that it is the genuine signature of George Morris Mitchell.

881. Or in other words, that it is the handwriting of George Morris Mitchell?—Clearly so.

882. Sir *FitzRoy Kelly.*] You are speaking of the receipt marked "D"?—Yes.

883. *Chairman.*] Will you give your reasons for that?—Not only that it agrees so in every respect with the former signatures, but, if you observe, this receipt is written in two inks, a dark ink and a pale ink. Perhaps you will look at it yourself, sir. I have brought my glass with me this morning. This is the office ink.

884. Which is the office ink?—The black ink, not blotted; and if you look at the other, that is a paler ink, and is written with a different ink to the body of the receipt. If you examine the other exhibits, you will find, that all the signatures of George Mitchell, which are acknowledged to be genuine, are all written with that same ink, and all blotted, which appears to have been a habit of Mitchell's.

885. Mr. *Owen Stanley.*] And apparently written with the same pen or quill?—Yes; it gives the idea that the body of the receipt was written first of all in the office with a different ink, and then taken into another room to be signed, thereby impressing me with the belief that two different persons were engaged in the writing of it. There are so evidently two inks, that a chemist would immediately tell you so. If that receipt was written at the same time, with the same ink, by one person, why should he have taken the trouble to change the ink for the signature?

Mr. *F. G. Netherclift.*

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886. Mr. *Bonham-Carter.*] One of the signatures to which your attention has been particularly directed, and which Mitchell has acknowledged to be his own, is the first signature on the second column of the petition from St. Martin's-in-the-Fields, and the address there given is "78, Cannon-street West." Have you noticed in any other petition any other signature with the address, "78, Cannon-street West"?—I have; it is in the petition from the City of London, with the figures "1922" marked upon it.

887. Have you any remark to make upon that?—The signature, "Francis R. Graham, gentleman, 78, Cannon-street," is in the handwriting of George M. Mitchell.

888. Where does that signature stand?—It is the first in the left hand column.

889. Is there anything peculiar with regard to that signature which identifies it with Mitchell's own signature?—The same capital and the figures "78," and the "8" being joined to the capital "C," in fact the word "Cannon" is exactly alike; it is identical.

890. Does it appear to you that the name "Francis R. Graham" is written in the same handwriting, and at the same time, as "Cannon-street"?—Yes, the word "Graham" is a little thicker, but that is evidently through the ink.

891. Mr. *Owen Stanley.*] Will you look down that petition and tell us if there are many more signatures which you can recognise as being in George M. Mitchell's handwriting?—Yes, several. I think this "George Beckford, law stationer, Chancery-lane," is his. "John Aberden, London Wall," is his. "Savory, Fleet-street," I believe to be his. "Gray & Co., grocers," is his. "George Curtis, merchant, Aldermanbury," is his. "Stratton Tompkins, 20, Aldermanbury," is one of his. "William Oakley, plumber, Aldermanbury," is also his. "Henry Thomas, stationer," is his. "George Baldwin, woollen-draper," is also his. "John Chamberlaine, linendraper," is also one of his. There are several others. "George Snell," is his also.

892. Mr. *Bonham-Carter.*] Have you paid particular attention to the signature, "Henry Whitehead, 134, Fenchurch-street"?—I have not; but I can look at it now.

893. Will you see if there appears on the face of it any evidence that that handwriting has been repeated in other signatures to the same petition; you can do so, or before we close the evidence?—I will.

George Morris Mitchell, again called in.

G. M. Mitchell.

894. *Chairman.*] HAVE you had the evidence supplied to you, or have you heard the evidence which has been given before the Committee?—(*Mitchell.*) I have just had it; I had it a quarter of an hour ago from Mr. Stone.

895. *Chairman.*] The whole of it?—(*Mitchell.*) I have only had my own evidence.

896. *Chairman.*] Is there any evidence that you have not seen which you wish to see?—(*Mitchell.*) I should like to see Mr. Strutt's evidence very much; in fact, I should like the whole of the evidence.—(*The Committee Clerk was then directed to furnish Mitchell with a copy of the whole of the Evidence.*)

897. Sir *FitzRoy Kelly.*] You can retire and read it at your leisure; you had better read it immediately, so that if you desire to make any statement upon it, or wish anything done upon it, you can ask it to be admitted.

898. Mr. *Miller.*] Do you wish to call witnesses?—(*Mitchell.*) I think it would be as well to bring another witness in support of the signature to one of those receipts given in evidence by Mr. Strutt.

899. Sir *FitzRoy Kelly.*] Do you not think you had better read over all the evidence first, so that we may not do it piecemeal?—(*Mitchell.*) Very well, sir.

900. *Chairman.*] Are you prepared with your witnesses?—(*Mitchell.*) Yes, sir; but I should prefer to read the evidence over first.

[Mitchell then retired.

Mr.

Mr. *Francis Robert Graham*, called in; and Examined.

Mr. *F. R. Graham.*

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901. *Chairman.*] WHAT are you?—I am secretary to "Martin's Patent Anchor Company."

902. Where do you live?—78, Cannon-street.

903. Just take the petition from London, 1922, presented by Mr. Crawford, into your hand. Does that petition purport to be signed by you?—Yes, it does.

904. Do you see what purports to be your signature?—Yes.

905. Just read the name as it is there?—"Francis R. Graham, 78, Cannon-street."

906. In what order on the petition does that appear?—It is the first name.

907. Did you really sign that petition?—I did not.

908. Did you give any person authority to sign it for you?—Certainly not.

909. Were you aware that your name had been affixed to it?—I was not.

910. You were not aware that your name had been affixed to it until now?—Not until the present moment.

911. Mr. *Bonham-Carter.*] Do you know the handwriting?—I do not.

912. Major *Gavin.*] Was such a petition at all presented to you for your signature?—Such a petition was never presented to me for signature.

913. Sir *FitzRoy Kelly.*] You were never asked to sign any petition on behalf of an Indian prince named Azeem Jah?—Certainly not.

914. How long have you carried on your business at 78, Cannon-street?—Since last October.

915. Is it Cannon-street West, or Cannon-street?—Cannon-street.

916. Not Cannon-street West?—No.

917. Do you happen to know a person of the name of Mitchell?—I do.

918. How long have you known him?—I have known him for some years.

919. Has he any place of business, or does he resort at all to 78, Cannon-street?—He has no place of business there, but by my permission, my messenger allows him to have letters directed to him there occasionally. He represented to me that he had offices at the West End, and he required a City address—at least so my messenger told me—for his business purposes; so he had letters directed to him there.

920. Is your messenger the person who keeps the house?—No; he is the Company's messenger.

921. What is his name?—William Facon.

922. Has Mitchell ever said anything at all to you about petitions, or about the Prince Azeem Jah?—Yes, he has; he told me that he was at work for some solicitor to get petitions signed to present to the House.

923. How long ago is that?—I should think it is, perhaps, two months ago.

924. Do you remember anything else that he has said in relation to that matter?—No; he merely told me that he had petitions to get signatures to, and he asked me if I would allow the messenger to make a few shillings by engrossing some petitions.

925. Have you seen him frequently during the last two or three months?—Perhaps once or twice a week.

926. Does he come there?—He came there for his letters; if there were any letters directed to him he came for them.

927. Is that all you know of him in any way?—Yes.

928. Mr. Alderman *Salomons.*] There were no sheets of petitions left at your place, to your knowledge, for persons to sign?—Certainly not.

929. Mr. *Owen Stanley.*] At no time did he ask you to allow his name to be affixed to that petition?—No.

930. Sir *FitzRoy Kelly.*] Do you know Mitchell's handwriting?—I do not.

931. Do you know anything of a clerk or assistant of his of the name of Marshall?—No, I do not.

932. Or Whitehead?—He has had somebody of the name of Whitehead come for letters for him when he has not come there himself; that is all I know of him.

933. Mr. *Owen Stanley.*] Will you look at that signature (*referring to the signature*

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signature to the petition purporting to be that of the Witness). Is that in the handwriting of the clerk you mentioned just now?—No, it is not.

934. Sir *FitzRoy Kelly.*] You do not know the handwriting at all?—No.

935. You can form no opinion or judgment as to whose handwriting that is in?—No.

936. Major *Gavin.*] Is it at all like your handwriting?—It is not at all similar.

George Morris Mitchell, again called in.

G. M. Mitchell.

937. *Chairman.*] WE have given you every facility of bringing your witnesses before us; but we are now anxious to conclude the evidence; do you wish to examine Mr. Whitehead?—(*Mitchell.*) Mr. Whitehead is somewhere about the building, and I have been in search of him.

938. *Chairman.*] Do you wish to examine him?—(*Mitchell.*) I simply wish to examine him as to the signature of Marshall.

939. Sir *FitzRoy Kelly.*] Of course you will understand that you need not go into any evidence unless you think proper; but if you wish it we will call him in, and you shall examine him?—I have not had time to look through the whole of this evidence. I find there are many discrepancies in it. For instance, it speaks of the Rochester petition, with which I never had anything to do at all.

Henry Whitehead, called in; and Examined.

H. Whitehead.

940. *Mitchell.*] I WISH you to look over some receipts which I believe are in the hands of the Committee, and state in whose handwriting the signatures are. (*The receipts referred to were handed to the Witness*)?—All these are Mr. Mitchell's, with the exception of one.

941. Sir *FitzRoy Kelly.*] Is there any mark upon that one so that we may identify it?—There are marks upon all.

942. In order to make your answer intelligible, will you be good enough to give the marks upon the whole, and then particularly upon the one which you make the exception?—There is a mark upon one, "D"; another is marked "A," another is marked "C," and another is marked "B."

943. Which is the exception; you say they are all in Mitchell's handwriting except one?—With the exception of one, and that one which is not in the handwriting of Mitchell is "D."

944. Sir *FitzRoy Kelly.*] Now, Mr. Mitchell, if you wish to ask Mr. Whitehead any further question, you had better do so?—(*Mitchell.*) I think there is a letter respecting which you had a doubt.

945. *Chairman.*] If you want to refer to any letter you can do so.

946. Sir *FitzRoy Kelly.*] But do not question the Committee?—(*Mitchell.*) I was speaking of a letter which Mr. Netherclift had a doubt upon yesterday. I think he stated that the body of that letter was in my handwriting. It was a letter by myself to Mr. Strutt.

947. *Chairman.*] Never mind what has been said; you can ask the Witness any question you think proper?—(*Mitchell.*) Can you tell the Committee if you know that handwriting (*handing the letter marked "O," dated* 17 *March* 1865, *to the Witness*)?—The body of this is in Mr. Powell Marshall's handwriting, without a doubt.

948. Have you looked at the signature?—The signature is that of Mr. Mitchell.

949. Now, will you take the receipt marked "D" and compare it with the signature to that letter?—There is no occasion for me to do that, because I know the handwriting of both parties too well not to be able to form an opinion in an instant. I believe this is Marshall's handwriting, and this is Mitchell's.

950. Then they are not both in the same handwriting?—Most decidedly not.

951. Sir *FitzRoy Kelly.*] Have you any further questions to put to Mr. Whitehead?—(*Mitchell.*) I believe there was a question asked Mr. Marshall yesterday,

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yesterday, at what time my hand was bad, and I was unable to write and to attend to business. I thought it proper to bring my medical man who attended me, and he is now in attendance, if the Committee would like to ask any question of him.

952. Sir *FitzRoy Kelly.*] You have a right to examine him if he is here?—(*Mitchell*). He is here now.

953. Sir *FitzRoy Kelly.*] Is there any further question which you have to put to Mr. Whitehead, as our time is limited; if you have anything further to ask Mr. Whitehead, you had better finish with him before you call in another witness.

954. Mr. *Owen Stanley.*] You say you are no longer in Mitchell's employ?—No, I am not; I never was in his employ, except as a friend. I have done a great deal of business for him.

955. When did you leave his employ?—I have never been in his employ, and therefore I can never leave his employ. I have done business for him as a friend. There has been no pecuniary consideration between us. I have never desired it, and he has never offered it.

956. Have you been in the habit of working in the office with him, and with Mr. Marshall?—I have done so very often.

957. *Chairman.*] Without pay?—Certainly; I should not think of asking for any pay from Mitchell.

958. Mr. *Owen Stanley.*] For how long a time?—Some two or three months, not day after day, but occasionally. He has also allowed me the privilege of having my letters addressed there.

959. To what address?—To his office.

960. Where?—In Parliament-street, Westminster.

961. But you had no business transactions with him until about three months ago?—Certainly not, and then I could hardly call it a business transaction, beyond assisting him a little in several works he was bringing out, which at the time I took a great interest in.

962. And that for not more than three months?—A few months; I cannot say the number of months exactly.

963. Mr. *Hennessy.*] How long have you been acquainted with Mitchell?—I have known him since 1861.

964. Four years then?—Yes; and I have known Marshall since 1856, and am, therefore, pretty well competent to judge of the handwriting of both, being in daily communication with them.

965. Just take that petition from Hackney, 1918, in your hand; is that your signature?—That is my signature.

966. Sir *FitzRoy Kelly.*] You are quite aware that the warning which I gave to you, when you were before the Committee yesterday, equally applies to anything that you may say now in answer to any question by the Committee. You are not bound to answer any question at all, unless you think proper, that you think may be at all prejudicial to yourself, or tend to criminate yourself?—That is my signature.

967. Mr. *Bonham-Carter.*] There is another signature of the name of Whitehead; have you any remark at all to make on that?—If so, that would be the signature of my brother.

968. Mr. *Owen Stanley.*] You have stated that you were concerned in getting up signatures for these petitions?—For the City petition, but I signed the petition from Hackney myself. I did not use any influence at that time, because I was not long in London; I simply signed my own private address, "2, Gloucester-terrace." I exercised none of my interest in the neighbourhood where I resided, because I was shortly going out of town for a few days, but when I came back I exercised what influence I had in the City, and I got, I dare say, about 30 or 40 signatures.

969. You are equally concerned in that other petition, 1922?—I have not seen it to my knowledge; until I see it, I do not know. [*The Petition was handed to the Witness.*) This is it?—Yes.

970. Mr. Alderman *Salomons.*] Read your signature?—"H. Whitehead, 134, Fenchurch-street."

971. Mr. *Hennessy.*] That was your City address at the time?—Quite so.

972. Mr. *Owen Stanley.*] Were you engaged in getting up that petition?—

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This is a petition which I obtained many signatures to. When I say "many," I dare say about 30 or 40; I cannot say exactly. When I have seen my friends, I have told them to sign it in consequence of knowing Mr. Mitchell; and a great many have signed that upon my representation.

973. Did anyone else assist you in that?—No one else.

974. Mr. Powell Marshall never assisted you at all in that?—No; I know he had to do with it.

975. But he did not communicate with you?—No, certainly not; he was not acquainted with the majority of my own friends.

976. Mr. *Miller.*] Do you find the name of Graham there?—I see the first signature.

977. Do you recognise that handwriting?—I know Mr. Graham, but I am not acquainted with his handwriting.

978. Sir *FitzRoy Kelly.*] The question put to you is, do you recognise that handwriting?—No, I do not.

979. *Chairman.*] (To *Mitchell.*) The Committee think it right that some evidence which has been given to-day by Mr. George Francis Graham, and also some additional evidence of Mr. Netherclift, should be read over to you.—[*The shorthand writer, by the direction of the Committee, then read over the evidence referred to to Mitchell.*]

980. Sir *FitzRoy Kelly.*] (To *Mitchell.*) Will you be so good as direct your attention to your own signature to the petition from St. Martin's-in-the-Fields, and to the signature of this person of the name of Graham?—(*Mitchell.*) Mr. Graham's signature is in my handwriting, with his consent; I do not dispute that for a moment. With Mr. Graham's consent, I wrote that signature.

981. Mr. *Hennessy.*] To the City petition?—(*Mitchell.*) Yes. That is my handwriting. If you compare it with the signature to the St. Martin's petition, you will find they are very similar.

982. Sir *FitzRoy Kelly.*] You have heard the evidence of Mr. Graham read, in which he declares that he gave no one any authority to affix his signature to any petition relating to the claim of Azeem Jah, and he never heard of his signature having been affixed before this morning?—(*Mitchell.*) Mr. Graham's evidence I dispute.

983. Sir *FitzRoy Kelly.*] You know his address?—(*Mitchell.*) 78, Cannon-street. He is secretary to Martin's Patent Anchor Company; I have known him these 10 years.

984. Sir *FitzRoy Kelly.*] You have heard his evidence read over?—(*Mitchell.*) I have.

985. Mr. *Hennessy.*] Did you hear Mr. Graham give his evidence to-day?—(*Mitchell.*) I did not.

986. Mr. *Hennessy.*] Had you any conversation at any time with Mr. Graham upon the subject of the petitions to this House?—(*Mitchell.*) Yes; ever since I have had anything to do with the petitions, I have been in the habit of going there and transacting part of my business in the back office. I do not think I have missed at any time more than two days in each week going to the office to get my letters, and if I have had any business to do, I and my clerk have gone there and done it; sometimes I have made use of a friend's office at 134, Fenchurch-street.

987. Mr. *Hennessy.*] You wrote down his address, 78, Cannon-street?—(*Mitchell.*) 78, Cannon-street.

988. Mr. *Hennessy.*] It was also the address which you wrote down to your own signature, and the other signature?—(*Mitchell.*) Yes.

989. Mr. *Hennessy.*] Do you desire to be confronted with Mr. Graham before this Committee?—(*Mitchell.*) I should be very glad to do so.

990. Sir *FitzRoy Kelly.*] Are we to understand from your answer that it is not only 78, Cannon-street, but also the signature "Francis R. Graham," which you wrote?—(*Mitchell.*) I signed Mr. Graham's name with his consent.

991. Sir *FitzRoy Kelly.*] I only want to be quite sure that you meant the whole of his name, his description, and his address?—(*Mitchell.*) Exactly; I will answer you any question you think fit to put to me; I wish you to have every information.

992. Sir *FitzRoy Kelly.*] Without any question being put to you, you are quite

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quite at liberty to state of your own accord anything which you think proper to do?—(*Mitchell.*) I desire to keep nothing from the Committee.

993. Sir *FitzRoy Kelly.*] The Committee put one or two questions to you in order that there might be no misapprehension as to what you have voluntarily stated; but without any question being put to you, you may state anything which you think proper which is relevant to the inquiry before the Committee?—(*Mitchell.*) Will you allow me to ask you whether the order was served upon Mr. Wyatt?

Sir *FitzRoy Kelly.*] Yes; he was to have attended here to-day.

Chairman.] We sent it by our summoning officer.

Mr. *Poingdestre.*] I served his clerk. Mr. Wyatt had not been there, but his clerk told me he would use all his endeavours to procure his attendance before the Committee.

994. *Chairman.*] You are not sure, then, whether he is coming or not?—(Mr. *Poingdestre.*) I am not.

995. Mr. Alderman *Salomons.*] When did you serve him?—(Mr. *Poingdestre.*) This morning.

996. Mr. Alderman *Salomons.*] What time?—(Mr. *Poingdestre.*) I was there before the office opened, and I remained there until it did open.

997. Mr. Alderman *Salomons.*] What hour was that?—(Mr. *Poingdestre.*) It was a quarter to 10 when I was there first.

998. Mr. *Hennessy.*] (To *Mitchell.*) In signing the name "Francis R. Graham, 78, Cannon-street," did you disguise your handwriting?—(*Mitchell.*) Certainly not.

Henry Whitehead, again called; and further Examined.

H. Whitehead.

999. Mr. *Miller.*] WHOSE handwriting is that letter in—(*Handing the letter marked "P" to the Witness*)?—Marshall's.

1000. Having known Marshall for many years, you identify that as being in his handwriting?—Yes.

[*The letter was then directed to be placed on the Minutes, and is as follows:*]

"P."

"Sir,

"HAVING had to come to town from Hitchin yesterday, and back last night, (having to take a series of views in the neighbourhood), I shall feel obliged by your allowing my expenses and loss of time.

"Yours, truly,
"*Powell Marshall.*"

1001. Sir *FitzRoyKelly.*] While you are here, there is a question I wish to ask you with reference to an answer which you gave; I understood you to say, and if I have not correctly understood you, you will be good enough to correct me, that to that London petition you procured, I think you said, 30 or 40 signatures?—Yes, I believe so.

1002. About that number?—Yes.

1003. There are a great number of signatures beyond that number; are the 30 or 40 signatures which you say you procured at the beginning, in the middle, or at the end?—In all parts, because I was not engaged to fill the City petition; therefore, I did not take the petition with me; but as I recommended the signatures to be appended, so my friends did it.

1004. Had you the petition in your hands at this time. I want to know your method of procuring the signatures?—Not for that particular purpose. I signed it myself, and I got others to sign it as well.

1005. Was that before you had got any one else to sign it?—Most decidedly.

1006. At the time you signed it yourself, had it a great number of other signatures?—There were some.

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1007. From whom did you receive it with all those signatures upon it?—My own?

1008. No; you say the petition bears your signature?—It does.

1009. At the time you affixed your signature to that petition, it had already a number of signatures before yours?—Yes.

1010. I ask you, from whom did you receive the petition with those signatures which preceded yours?—Well, it must have been either from Mr. Mitchell or Mr. Marshall, but I really cannot say.

1011. Then you affixed your own signature?—Yes.

1012. Did you, while you had the petition in your hands, get other people to sign it before you parted with it again?—No, I did not.

1013. You gave it back again yourself, affixing your own signature?—I did so.

1014. Then it was brought to you again?—Yes.

1015. Then did you take it about to any of your friends?—I did.

1016. At different periods?—At different periods.

1017. Then as you got name after name affixed to it you returned it to whom?—I returned it either to Mr. Mitchell, or Mr. Marshall, I cannot say which.

1018. And so on till you got the list of the names which you say you have fixed to it?—Yes; possibly about 30 or 40; I cannot say for certain.

1019. Then you returned it again finally either to Mitchell or Marshall?—That is so.

1020. There are 508 signatures to that petition. Can you give the Committee any idea how many of them were affixed to it at the time when you last returned it?—I cannot. I did not give it so serious an attention as that.

1021. Was it only some 50 or 60, or several hundreds?—I cannot say for one moment; I never paid it so much serious attention as to be able to say that.

1022. Can you tell to whom you gave it back finally?—Either to Marshall or Mitchell.

1023. You cannot tell which?—It is impossible for me to say which.

1024. Mr. *Owen Stanley.*] Have you not already stated that Mr. Marshall had nothing whatever to do with the City petition?—No; I stated that I had nothing whatever to do with the City petition with Mr. Marshall.

Mr. *Frederick George Netherclift*, again called in; and further Examined.

Mr. *F. G. Netherclift.*

1025. *Chairman.*] WHAT is the result of your further examination of the London Petition?—I am speaking now of the London petition alone. I do not trace any more of the writing of Henry Whitehead through the remainder of the signatures; but I do the handwriting both of Mitchell and Marshall.

1026. Mr. *Hennessy.*] In the London petition?—In the London petition.

1027. Mr. Alderman *Salomons.*] What are the proportions of those signatures which you trace as being, as you say, in the handwriting of Marshall or Mitchell, compared with others?—I have not gone sufficiently into it to be able to state the number.

1028. Can you give the proportion?—I should think half between them.

1029. Mr. *Hennessy.*] I put this London petition again into your hands. The first signature is "Francis R. Graham, Gentleman, 78, Cannon-street." That signature you have stated you believe to be written by Mitchell?—I do.

1030. Do you think it is written in a disguised hand, or in Mitchell's ordinary hand?—Well, I think it begins slightly disguised, and then gets into the natural hand at the end of it.

1031. What is the next signature?—"William Facon, clerk."

1032. Is that one of those you think are written by Mr. Mitchell or Mr. Marshall?—I do not think I can form any opinion upon that.

1033. What is the third signature?—"George Bathurst, Fenchurch-street."

1034. Have you formed any opinion about that?—No.

1035. What is the fourth signature?—That is Mr. Whitehead's.

1036. Is that a genuine signature?—He has acknowledged it as such.

1037. Have you formed any opinion about the fifth signature?—"John Green"? No.

1038. Have you formed any opinion about the sixth signature?—No.

1039. Have

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1039. Have you any reason to think that the seventh signature is fictitious?—It is a funny signature, but it is not down as one of those which I have put to their account.

1040. Have you reason to think that the eighth signature is fictitious?—No; I think that is genuine.

1041. Have you reason to think that the ninth signature is fictitious?—No.

1042. It being understood that this is a petition which you have examined, will you proceed *seriatim* with each signature?—"Rilas & Couchman, Printers."

1043. Whose signature is that?—That is the 17th signature.

1044. Is that the first signature which you say is fictitious?—Yes, except the first.

1045. No. 17 in the list is the second signature which you think is fictitious?—Yes.

1046. Now proceed to No. 18. Is that fictitious?—Yes, that is fictitious.

1047. What is that signature?—"William Neale." "William Terry," No. 21, is fictitious also.

1048. What is the next signature in the petition to "William Terry"?—"John Durham" will be the next. That will be No. 23. He is described as "Publican, Fore-street." That is false.

1049. What is the next signature immediately after that?—"Charles Milligan, umbrella maker."

1050. Is that a genuine signature?—No.

1051. What is next to it, immediately under it?—"George Snell, Chancery-lane."

1052. Is that fictitious?—Yes.

1053. What is the next?—The next is "Richard Pont."

1054. Is that fictitious?—Yes.

1055. What is the next?—"Henry Shand, painter."

1056. Is that fictitious?—Yes. "John Leslie, china dealer," is also fictitious.

1057. Do I understand you to say that these signatures which you have now stated to be fictitious, follow one after the other in the petition?—Not immediately one after the other.

1058. That is what I wanted to get at. I was calling your attention to signatures one immediately after the other?—No, they are dispersed here and there; perhaps a genuine one may come between.

1059. You misunderstood the scope of my examination. I was distinctly impressing upon you to state whether each signature, taking them *seriatim*, is genuine or not?—Then I had better go through them.

1060. We commenced detecting the fictitious signatures after the first, at No. 17?—Yes.

1061. Under No. 17, what is No. 18?—"William Neale, solicitor."

1062. Is that fictitious?—I cannot say. I cannot trace any elements of the handwriting of either Marshall or Mitchell in it. Those I have pronounced to be fictitious are in the handwriting of either the one or the other.

1063. Take No. 19; what do you say to that?—No; that also escaped.

1064. Now, take No. 20?—That escaped. That is "William Terry."

1065. Now, take No. 21; is that fictitious?—Yes; "H. B. Williams, 14, John-street."

1066. You have now stated that the first signature to the petition, and also the 17th and 21st, are fictitious?—Yes.

1067. Now I ask you this; are those three signatures which you believe to be fictitious written by the same person?—No; not "William Terry," but "Rilas and Couchman," and "Williams" and "Milligan" are written by the same party.

1068. The question is, whether it is your opinion that the same person wrote the three signatures which you now find to be fictitious, namely, No. 1, No. 17, and No. 21?—No; I say that No. 1, No. 17, and No. 23 are written by the same person who wrote "Francis R. Graham" at the top; that is my opinion. I think this "William Terry" is written by Marshall, because of his peculiar "y." That is No. 20. To pick out those which are written by one man, and those which are written by another, would take me a whole day. If you want to identify every one that Mitchell wrote, and every one that Marshall wrote, I should want a full day, or two days.

1069. Could you furnish the Committee with a list of the names to that peti-

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tion which you deem to be fictitious?—I could, if I had time allowed to do so.

1070. Will you hand in a list of these names to the Committee, and when?—Do you mean as to this particular one, because there are 19 of them?

1071. I am now asking you whether you can furnish the Committee with a list of the names, which you deem to be fictitious, appended to that London Petition?—I have not the slightest doubt I can, if time is allowed me.

1072. At what time?—May I be permitted to take it home?

1073. Certainly?—I will take the greatest care of it, and I can do it better at home.

1074. Can you furnish such a list of names to the Committee by to-morrow morning?—I can.

1075. Sir *FitzRoy Kelly*.] That is, a list of the names in that petition which you deem to be fictitious?—(*The Witness.*) Then I must be allowed to take the handwriting both of Mitchell and Marshall.

1076. Sir *FitzRoy Kelly*.] These documents are so extremely important, that I do not think we should be justified in letting them out of our own custody; therefore as regards these documents I am afraid that whatever you do you must do within the building.

1077. *Chairman*.] If you feel you cannot do it, say so?—(*The Witness.*) I feel confident I can do it if time is allowed me.

1078. *Chairman*.] Have you made any examination with regard to the Hackney petition?—I have just looked over it.

1079. Will you state the result of that examination?—I recognise Mr. Whitehead's handwriting. I think he signed several names; I trace his handwriting throughout the Hackney petition.

1080. Have you any other remark to make?—No; I have not been ordered to make any report.

1081. How long will it take you to give 20 names?—Half-an-hour.

1082. Mr. *Hennessy*.] That is the Hackney petition. What is the first name to the Hackney petition?—"Lorton Edward Harley, Stanley-terrace, Hackney."

1083. Are you prepared to state that that signature is fictitious?—No, I am not at all.

1084. What is the second signature to that petition?—"Sidney Marshall."

1085. Are you prepared to state that that signature is fictitious?—Yes, I am.

1086. By whom do you think it was written?—I think it is written by Powell Marshall.

1087. What is the third signature?—"Samuel Haines, Plumber."

1088. Is that signature in your opinion fictitious?—I do not know. I will not say.

1089. Is the fourth signature fictitious?—That may be a genuine one.

1090. Is the fifth signature fictitious?—That, I know, is genuine. It is "Henry Whitehead, 2, Gloucester-terrace." He has confessed it.

1091. Mr. *Bonham-Carter*.] Have you paid particular attention to the subsequent signatures?—Yes. I was just going to make the remark, after "Henry Whitehead" has signed his, then comes "Richard Miles, Royal Victoria Park," which is evidently in the handwriting of Whitehead. The next is also in his handwriting, "Richard Steib, Victoria Park-road." The next in his handwriting is "George Wyatt, Victoria Park-road."

1092. Are those all three together, or at intervals?—"Richard Steib" and "Henry Wyatt" follow each other. Then there are "Daniel Lay, 1, Clifton Park, Cambridge-road," "John Street, Rosemary-place, Dalston," and "Charles Philip Townsend, Victoria Villas, Dalston."

1093. Are those all fictitious?—They are his writing, and of course they are fictitious signatures, because they are not the signatures of the parties.

1094. Sir *FitzRoy Kelly*.] You believe them all to be Whitehead's writing?—Undoubtedly.

1095. Mr. *Hennessy*.] But these signatures do not follow each other in the petition?—There are one or two put in between. Two or three follow each other. "Charles Philip Townsend" follows "John Street."

1096. Sir *FitzRoy Kelly*.] You need not now remain any longer, but you can by to-morrow let us have, with reference to both petitions, a list of those names which

which you believe to be fictitious?—(The *Witness.*) This petition I can take home?

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1097. Sir *FitzRoy Kelly.*] Yes, you may take that, and let us have it to-morrow.

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1098. *Chairman.*] (To *Mitchell.*) Have you any question to ask Mr. Netherclift?—(*Mitchell.*) No, I have not. May I take this evidence with me to look over? I have not had time to look through Mr. Strutt's evidence, and that is rather important to me.

1099. *Chairman.*] You wish to read Mr. Strutt's evidence?—(*Mitchell.*) If you please. Have you any objection to Mr. Wyatt attending here to-morrow; he was only served with the summons this morning.

1100. *Chairman.*] We have done our best to get him here to-day?—(*Mitchell.*) His evidence will be very important to me to rebut Mr. Strutt's evidence.

1101. Sir *FitzRoy Kelly.*] If that be so, you had better make some effort yourself to secure his attendance.

1102. Mr. Alderman *Salomons.*] His evidence may make it better or worse for you?—(*Mitchell.*) I cannot see that there is any worse in the case, as far as I am concerned.

1103. Sir *FitzRoy Kelly.*] Do you wish to call your medical attendant in?—(*Mitchell.*) Yes.

Mr. *William Harding*, called in; and Examined.

1104. *Chairman.*] ARE you a medical man?—I am.

Mr. *W. Harding.*

1105. Where do you live?—No. 4, King's Cross-square, Aldersgate.

1106. Sir *FitzRoy Kelly.*] (To *Mitchell.*) Do you wish to put any question to your medical attendant?—(*Mitchell.*) There was a question which was asked about my being disabled from writing.

1107. Mr. *Miller.*] Did you attend Mitchell for a disabled hand?—I did.

1108. Can you fix the date when you attended him?—I cannot say the absolute day; I can do so on referring to my book.

1109. Sir *FitzRoy Kelly.*] You had better examine your witness yourself, and just ask him whatever questions you please.

1110. *Mitchell.*] (To the *Witness.*) I believe you attended me about the latter end of January?—Some time in January; I think about the middle of January.

1111. For a bad hand?—For an injury to the right hand.

1112. How long did you attend me?—I should say some three or four weeks altogether before you were able to attend to your duties.

1113. Not longer?—I should say not.

1114. Will you explain to the Committee what was the matter with my hand at that time?—You had an injury to the index finger of the right hand, with a great deal of swelling and much pain extending over the back of the hand. You told me that you were compelled to do some work, or something of that kind, and I ordered you to keep perfectly quiet and not to use it. I then applied the usual remedies to reduce the inflammation and to get down the swelling.

1115. When did you cease attending me for this sprained hand?—From day to day; I should say you were under my care from three weeks to a month.

1116. That would be about the end of February?—Of course it would.

1117. Not longer?—No, I think not.

1118. Could you tell the date by referring to your books?—I could do that by referring to my books.

1119. Perhaps to-morrow, if it would not be giving you too much trouble, and if the Committee will permit it, you will produce your book?—Yes.

1120. Mr. *Owen Stanley.*] It was not a sprained wrist?—No, it was an injury to the index finger. The first ring, or what is called the cartilage covering the bone was injured, and became tumourified to that extent over the back of the hand.

1121. Which hand?—The right hand. I ordered the hand to be kept in a sling, which it was some three or four weeks, in order to prevent him writing.

1122. Sir *FitzRoy Kelly.*] Are you a physician?—No, I am a surgeon.

1123. Can you undertake to say positively, one way or the other, whether this injury to the hand was such as for any length of time to absolutely in-

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capacitate Mr. Mitchell from writing his name?—It would prevent him from doing that without giving him considerable pain, because he had not the power to clench the finger.

1124. Again, I must ask you positively, because dates are very important. Can you undertake to say during what length of time, and what period of time he was thus incapacitated?—Most distinctly for two or three weeks he would be entirely.

1125. From what time to what time?—I should say, Sir FitzRoy, take the first week in January, up to the end of February; I can positively state that.

1126. That is more than four weeks?—I spoke of the first week in January, until the end of January.—(*Mitchell.*) I believe you will find on looking at your books that it was at the latter end of January.

1127. Sir *FitzRoy Kelly.*] First of all, if you say he could not write at all, or if you go so far as to say he could not write without a great deal of pain, it becomes very important that we should know over what period of time that evidence extends, during which you pledge yourself that he was unable to write?—He could not do that for something like three weeks.

1128. Three weeks from the end of the first week in January?—Yes.

1129. If your books will enable you to tell that time with precision, we shall be very glad to have that to-morrow?—Certainly.

1130. You can come to-morrow, and shortly refer to your books?—I will do so.

1131. Mr. Alderman *Salomons.*] You say during all that time that he would not be able to write without much difficulty?—Not without much pain.

1132. Would that pain affect the quality of his writing?—Certainly, it would. It must indeed, because by holding the pen, the position of the pen causing pressure would give pain.

1133. Do you mean that he was not incapacitated from writing?—It is a difficult matter to say that. If you were to put me upon my oath, and ask, could he write his name in that state, I should say he could, but with difficulty.

1134. Then you will come to-morrow with your book?—I will. I have not had the pleasure of attending Committees of this House before, and I hardly know in what position I stand. I received no order from the Committee to attend, but as I have had to engage a medical man to supply my place to-day, I wish to know whether my expenses will be considered in this matter. I have attended to-day, knowing Mr. Mitchell and his family for the last 25 years.

1135. Mr. *Hennessy.*] Will you be good enough to inform the Committee how this accident was occasioned?—By a blow, I understand.

Sir *FitzRoy Kelly.*] I am afraid we cannot with propriety be of any use to you in the matter to which you refer, as you are called by Mitchell as his witness.

The *Witness.*] I am quite aware that in courts of law, both civil and criminal, we receive a subpœna.

Sir *FitzRoy Kelly.*] We have dispensed with that, because we were anxious to receive any evidence that Mitchell might think fit to offer to us; but it is Mitchell, and he alone, who has called you as a witness, and the Committee cannot with propriety offer you any remuneration. I am sorry to be obliged to state so.

Veneris, 7° die Aprilis, 1865.

MEMBERS PRESENT.

Mr. Bonham-Carter.	Sir FitzRoy Kelly.
Mr. Cox.	Mr. Taverner John Miller.
Mr. Charles Forster.	Mr. Alderman Salomons.
Mr. Hennessy.	Mr. Owen Stanley.

CHARLES FORSTER, Esq., IN THE CHAIR.

Mr. *William Harding,* again called in; and further Examined.

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1136. *Chairman.*] YOU were asked yesterday to refer to your books as to the time when you commenced attending Mitchell for his sprained hand. Have you done so?—I find that I attended Mitchell, for an injury to the right hand, from Thursday the 12th day of January, to Saturday, February the 18th, 1865. He continued under my care during that period.

1137. Sir *FitzRoy Kelly.*] We chiefly desire to know from what time to what time you can undertake to say that he was so far disabled, as that he could not write without pain. You do not say that he could not write, but that he could not write without pain. During what period, or to what period, do you say that he was unable to write without pain?—From this date.

1138. From the 12th of January to the 18th of February, 1865?—Yes.

1139. *Chairman.*] From the time you ceased attending him, would there be some time subsequent to his being under your care when it would occasion him inconvenience, or pain to write?—I do not think there was pain at that time; there might be a debility or want of tone in the muscular development.

1140. Mr. *Owen Stanley.*] You ceased attending him on the 18th of February?—Yes. There might be a weakness of the muscular development, and also of what we call the articular circumference of the joint.

1141. Did you attend him at his own house?—He came to me upon one occasion, and then I attended him at his office in Cannon-street, in the City.

1142. Mr. *Miller.*] Do you think that during that period he was actually incapable of signing his name?—That is a question very pertinent to the case; but if I were asked to swear whether he could do so or not, I should swear that he could do so in case of need; but whether the figures would be formed according to the regular and usual formation of his style of writing, is another question.

1143. Mr. *Owen Stanley.*] Are you acquainted with his handwriting?—I have known him and his family for 25 years, and therefore I am familiar with his handwriting.

1144. Sir *FitzRoy Kelly.*] As you say you know his handwriting, do you know whether those are his handwriting (*handing the receipts and letters, which had been already marked and put in evidence, to the Witness*)?—I think they are in his handwriting. I am looking at the writing after the Christian name, which is the surname, and that appears to be written in a much more steady style than the other part.

1145. Mr. *Owen Stanley.*] Will you look at the signature "Geo. M. Mitchell," and inform the Committee whether, in your opinion, they could have been written by a man so much incapacitated as you have described?—I should say that they are in his handwriting.

1146. Sir *FitzRoy Kelly.*] All?—Yes.

1147. Do you think in the state in which you describe him to have been, that he would have any difficulty in writing those signatures?—I think he would; for I notice in the writing of "Mitchell" that it is imperfectly written.

1148. Then you think these are signatures which he might have written at the time in question?—That would be a difficult question for me to answer *bonâ fide.*

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1149. *Chairman.*] With reference to the application which you made yesterday as to your expenses, although the Committee could not with propriety allow you anything for your attendance yesterday, you being called by Mitchell, and not by the Committee, still, as the Committee have given you the trouble to refer to your book, and attend here to-day, you will be allowed your expenses for so attending.

Mr. *Frederick George Netherclift*, again called in; and further Examined.

Mr. *F. G. Netherclift.*

1150. *Chairman.*] YOU were directed yesterday to prepare a list of such names from the Hackney petition, to which there are 593 signatures, as appeared to you to be forged; have you prepared such a list?—I have; this is a list of names extracted as being in Whitehead's handwriting: Richard Miles, Richard Steib, George Wyatt, Daniel Lay, John Street, Charles Philip Townsend, James Scott, August Venables, John Marshall, James Nicholls, William Wyatt, Orlando Vidler, Thomas Upjohn, Joseph Turpin, Francis Leah, James Mallyn, Robert Nicholls, T. Yabsley, Robert Thomas Holmes, Alfred Holmes, Thomas Shaw, George Graham, Sam Cakebread, George Seear, linendraper; Geo. Edwards, porkbutcher; Miss Richmond, Rachel Tyler, Catherine Smith (same hand); Robert Gynne, fruiterer; Henry Palmer, Henry Chancellor, Peter Ashcroft, Henry Tomlinson, Robert Watkins.

1151. In addition to the names which appear to be in the handwriting of Whitehead, do you hand in a list of other names which you do not consider to be genuine signatures, but concerning which you are not able to speak to the handwriting?—I do; and I have made a memorandum that I can point out with ease another hundred more, at the very least; in fact, my private opinion with regard to this petition is, that there are not more than half-a-dozen genuine signatures. John Leach, Henry Gerrard, George Reynolds, Richard Davis Perry, John Peachey, George Zatbon, Henry Welch, William Arnold, John Ashley, Thomas Babbs, George Everett, John Harvey, Henry Hunt, John Jeffray, William Johnson, Wm. Kearn, John Jupp, Henry Knox, George Lang, Thomas Penn, Edward Pepper, George Pullen, H. Ray, Henry Street, Thomas Thomas, Henry Welch, Joh. Revell, Richard Davis, William Arnold, James Clark, Henry Clark, George Edwards, George Haycock, J. G. Kittenden, Robert Entwistle, Abraham Judah, Charles Lyddon, John Marshall, William Pace, Henry Seer, Henry Booth, Rickett Smith, Charles Lea, William Mason, Fredk. Rosher, Wm. Stiles, Thomas Handley, Charles Francis, William Sutton, George Hard, Henry Summers, Susan Bidwell, Wm. Macey, Richard Blenchard, George Williams, Reuben Wakely, Thomas Perry, William Seeby, Henry Drury, Alfred Schotter, John Chapman, George Jarvis, William Barnett, Thomas Fonshall, George Past, Mary Richards, Robert Calvert, Thomas Godfrey.

1152. You do not say whose handwriting they are?—No, I do not.

1153. Did you also examine another petition?—I examined the London petition, to which there are 508 signatures. I received instructions from Mr. Hennessy to pick out 25, which I consider not to be genuine. I took 118 names, and out of those I find 35 not to be genuine. This is the list of names which I do not consider to be in the handwriting of the parties they purport to be: Riles and Couchman, James Whitehead, W. H. B. Williams, Charles Millengen, Daniel Pratt, George Snell, Geo. Sully, John Leslie, T. Pearson, S. Osmond, W. J. London, Matthew Hall, Robert Batterben, John Shepherd, William Toyes, George Crabb, Thomas Truss, G. Bousfield, Edward Falkner, Albert Bottomly, Andrew Peede, William Wilkinson, Benjamin Abbott, John Krall, A. Smith, M. Solomon, Josiah Bowder, Mary Ann Cole, Rees & Roberts, Johnson & Dymond, Joseph Marsh, D. N. Budge, George Payne, S. Whitham, Ann Stuckey.

1154. Do you trace any handwriting in those?—I do; the handwriting both of Mitchell and Marshall.

1155. You hand in a list of names which appear to you to be forgeries?—I do.

1156. In those names you trace the handwriting both of Mitchell and Marshall?—Yes. The following names I believe to be in the handwriting of Marshall: Thomas Millard, Walter Mills, T. W. Green, house agent; D. Walters, furniture manufacturer; Ridley and Whitley, G. Faren, tailor; Joseph Masters, John Higgins, George West, Henry Thompson, Daniel Bull, cheesemonger; John

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John Hutchinson, Patrick Cassidy, L. Hawkes, Thomas Tuestin Kirby, James Kirby, George Beckford, Josiah Cherry, Joseph Harradance, John Clarke. The following I believe to be in Mitchell's handwriting: John Shepherd, trunk maker; Hy. Savory, Henry Shaw, John Yorbury, Edward King, J. A. Turner, George Wakely, Joseph How & Son, Josiah Hall, George Birch, Henry Syme, Marratt and Short, James Charterer, Thomas Bland Leadenhaus, John Allan, shipowner; Stump & Willoughby, Frederick Sharp, Stephen Curtis, William Marshall, Prince & Company, Charles Spurtring, Joseph Bone, Stephen Powell, Wm. de Mattos, Andrew Boyd, Geo. Bell Townsend, Charles Humphreys.

1157. Sir *FitzRoy Kelly.*] Is there any similarity between the handwriting of Marshall and Mitchell?—Yes; there is a little.

1158. *Chairman.*] Are there distinctive differences in the handwritings?—Yes: as a specimen I give the capital S to identify Mitchell, and the capital M to identify "Marshall."

1159. Mr. *Hennessy.*] What do you say as to the remainder of the 118 names?—I have not formed an opinion of them; I believe a great many of them are not genuine; they may or may not be. I only say that the signature is in the handwriting of Marshall or Mitchell, when I trace their elements. If I do not, I give them the benefit of the doubt.

Mr. *James Wyatt,* called in; and Examined.

1160. *Chairman.*] YOU are a solicitor?—I am.

Mr. *J. Wyatt.*

1161. Where do you reside?—I carry on business at 17, Great Carter-lane, Doctors' Commons.

1162. Do you know George Morris Mitchell?—I do.

1163. Are you his solicitor?—I am.

1164. Sir *FitzRoy Kelly.*] Had you any conversation with Mitchell on or about Monday last, with reference to the signatures to any petitions in favour of Azeem Jah?—No; it was on Friday, on the day he was served with an order to attend this Committee; in fact, I was attending the Bankruptcy Court, and my clerk told the officer of the House that he was there when he was served. He asked my opinion as to what he should do; I advised him to attend the Committee at once; I told him he had better attend; but I found he did not, and subsequently that he was served with the Order of the House. On Sunday he called on me at my private residence with the peremptory Order of the House, and then I had a conversation with him upon it.

1165. We wish you to direct your attention to the conversation you are supposed to have had with him about the time which you mention, and which, or some portion of which, you afterwards are supposed to have repeated to Mr. Strutt?—That was on Monday.

1166. Will you, as nearly as you can, tell us what he said to you in reference to any of these petitions?—Well, but Sir FitzRoy, I must submit to the Committee, if you will allow me, whether any conversation which took place between Mitchell and myself on Sunday was not a privileged communication.

1167. That is a very proper thing to submit to the Committee, and the Committee will consider it. Before, however, we proceed to consider that, I will ask you this question: Was this conversation, which you are now objecting to give in evidence on the ground of privilege, while he was consulting you, or dealing with you, or communicating with you as his solicitor?—It was.

1168. It is with regard to your conversation with Mitchell that you are objecting to communicate on the ground of privilege?—I merely raise that point.

1169. Before we consider whether it was so far privileged as that, we shall not question you further about it. We want to know whether the conversation to which you are now alluding was held with Mitchell while he was communicating with you in the character of his solicitor?—It was.

1170. There was another conversation on Monday, was there not. You have spoken of one on Sunday?—No; the conversation I had on Monday was with Mr. Strutt.

1171. Then the conversation to which you are referring, which you submit was privileged, was on Sunday?—Yes.

1172. Did you hold that conversation with him in the character of his solicitor, and while he was communicating with you as such?—I considered it so.

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1173. And you object to communicate it on that ground?—When I was sworn an attorney you know I took an oath to keep inviolate my clients' secrets.

1174. Sir *FitzRoy Kelly.*] I am not now complaining of you at all. You had better withdraw, and then the Committee will consider the question.

[The room was ordered to be cleared.

Mr. *James Wyatt* and *George Morris Mitchell*, called in.

Mr. *J. Wyatt*, and *G. M. Mitchell.*

Mitchell.] I regret I was not here before; I thought the Committee met at one o'clock instead of 12 o'clock.

1175. Mr. *Hennessy.*] Were you summoned to attend the Committee to-day? Did you receive a summons?—(*Mitchell.*) I did not; I was not told to attend the Committee.

1176. *Chairman.*] (To Mr. *Wyatt.*) The Committee have considered the objection which you very properly make, and they are of opinion that your communication with Mitchell was a privileged communication, and therefore the question will not be pressed. (To *Mitchell.*) Mr. Netherclift has given some further evidence which, perhaps, you would like to have read over to you, and perhaps you would also desire to hear Mr. Wyatt's evidence. (*The shorthand writer, by the direction of the Committee, read over the evidence of Mr. Netherclift and Mr. James Wyatt to Mitchell.*)

Mitchell.] I will tell you our conversation on Sunday, if the Committee wish it.

Sir *FitzRoy Kelly.*] You must not appeal to the Committee, and ask whether we wish anything or not, Mr. Mitchell. All the Committee have to say to you is this. You may make any observations that you think proper upon the evidence which you have just heard read, and as Mr. Wyatt is here now, and is here as your witness, you may ask him any questions you think fit, and we shall listen to his answers, and have them taken down, but you must not ask the Committee anything.

1177. *Mitchell.*] (To Mr. *Wyatt.*) Did you receive a letter from Mr. Strutt on Saturday last, asking you to meet him on particular business at four o'clock on that day?—I did; but that was not connected with this matter at all; it was connected with his private affairs; it was a private matter between Mr. Strutt and myself. I was not aware I was attending as your witness.

1178. Did Mr. Strutt ask you to see me, and request me to confess my guilt, and to throw myself on the mercy of the Committee?—He did; that was on Monday.

1179. You did not call upon Mr. Strutt at my request?—No. Mr. Strutt is a private friend of mine, and you having called on me on Saturday, I called on him, but not in relation to this matter; it was on other business.

1180. You met me in the corridor outside, a little after 12 o'clock, I think?—I did.

1181. You told me the circumstance?—I related the conversation which had taken place between Mr. Strutt and myself.

1182. If Mr. Strutt did not request you to do that which you say, what brought you down here?—He did so; and wrote a letter to the Chairman of the Committee, and knowing that you were to be here, I wished to see you, and I thought I would communicate with you.

1183. Did the Chairman of the Committee have that letter?—He did.

Chairman.] Some letter was put into my hand, but I paid no attention to it; I believe I passed it round.

1184-5. *Mitchell.*] What was the purport of it?—Just what I have stated; to say that I had called on Mr. Strutt, and the advice he gave, which I have just related; and there was something else in the letter as to Mr. Strutt's attendance on the Committee. I should not have delivered the letter had it not referred to something else, because Mr. Mitchell requested that I would not do so, and repudiated making any admission. He said he was not guilty of the charges.

1186. Where is the letter that was delivered to the Chairman?—I do not know.

Mitchell.]

Mitchell.] (*addressing the Chairman.*) May I ask, Mr. Forster, whether you have that letter in your possession?

Chairman.] There was a letter handed to me, but I paid no attention to it; I believe I passed it round.

Mitchell.] It is very important to me to see that letter; it was a letter delivered by Mr. Wyatt from Mr. Strutt.

1187. *Chairman.*] (To Mr. *Wyatt.*) Was it a letter from you or Mr. Strutt?—A letter from Mr. Strutt.

1188. To you?—No; to the Chairman of the Committee.

Chairman.] There was a letter given to me, but I do not remember whether it was by you or Mr. Strutt; I did not read it, because I make it an invariable practice never to read letters addressed to me upon a subject which I have to deal with judicially.

Sir *FitzRoy Kelly.*] The letter is not forthcoming, Mr. Mitchell, therefore, if you please, you may ask the contents of it.

Chairman.] You may regard it as if I had never seen it, having never looked into it; I was engaged in pursuing the examination, and therefore we cannot regard that letter as having any bearing upon the case.

Sir *FitzRoy Kelly.*] If the letter cannot be found, you may give the contents of it.

1189. *Mitchell.*] (To Mr *Wyatt.*) Will you give the Committee the contents of the letter?—It was this; stating that I, as Mitchell's solicitor, had called upon him, and he suggested to me to advise Mr. Mitchell to confess his guilt, and throw himself upon the mercy of the Committee.

1190. That was Mr. Strutt's advice?—Yes; that was the purport of the letter addressed to the Chairman. There was something else about Mr. Strutt, and his attendance, and his illness, otherwise I should have followed Mr. Mitchell's wish, and not have delivered the letter.

1191. That was, as far as you can remember, the contents of it?—Yes.

1192. *Chairman.*] I do not think it bears in the least on the case?—(*Mitchell.*) I think it is rather important.—(Mr. *Wyatt.*) Mitchell repudiated following the course suggested by Mr. Strutt.

1193. *Mitchell.*] (To Mr. *Wyatt.*) Did I not laugh at the idea when you met me in the corridor, and told me of the circumstances?—You did.

1194. Did I not tell you that it was all very well, but that Mr. Strutt wanted to throw the onus entirely upon me?—Yes; that was your observation.

1195. Do you remember, Mr. Wyatt, that we had some conversation (I cannot remember the date), in which you told me that Mr. Strutt himself was quite right with the Committee, that he had Sir FitzRoy Kelly, his personal friend, on the Committee, and that he had great weight with the Committee?—I do not remember that, or any thing of the sort, as it did not take place altogether.

1196. Don't you?—No; I think you make a mistake in that, Mr. Mitchell, altogether.

1197. I think not. You never told Mr. Strutt that I confessed I was guilty of the charges brought against me by the Committee?—It is not likely.

1198. Did you?—No; certainly not.

1199. Did I ever say so to you?—No.

1200. Sir *FitzRoy Kelly.*] You see, Mr. Wyatt, you have been asked concerning a conversation which took place between you and Mr. Mitchell on the Sunday, and you have objected to repeat that conversation upon the ground of privilege, because he was speaking to you as his solicitor. You are now asked a question upon what it is possible may have been the subject of that conversation. Therefore you will be good enough to consider well in answer to the question which Mr. Mitchell has put to you, whether, either in that conversation or at any other time, anything was said of the nature that is put to you. It is Mr. Mitchell who is now putting the question to you, and therefore that at once releases you from all question of privilege, because he chooses to ask you the question himself?—(Mr. *Wyatt.*) If am to go into the conversation on Sunday, I will do so.

Mr. *J. Wyatt*, and *G. M. Mitchell.*

7 April 1865.

1201. Sir *FitzRoy Kelly.*] That you must ask Mr. Mitchell. If he chooses, you can repeat the conversation?—(*Mitchell.*) I think I can tell the conversation between you and me.

1202. Mr. *Cox.*] Do you consent to Mr. Wyatt stating the conversation?—

1203. *Chairman.*] You have already asked Mr. Wyatt a question concerning the conversation on Sunday. The Committee did not press that question on the ground of its being a privileged communication. You have put the question as to whether you yourself made any admission. I now ask you do you repeat the question?

Sir *FitzRoy Kelly.*] You must consider well before you answer the question. We cannot put that question to Mr. Wyatt, because he says that he is privileged as your solicitor against answering that question.

Mitchell.] (To Mr. *Wyatt.*) I think I called upon you at your private house.

Sir *FitzRoy Kelly.*] Bear in mind, if you ask him any questions at all relating to that conversation, you give up the privilege. *You* may do it, although we think that Mr. Wyatt cannot. Therefore, you must really determine, before you question him further upon it, whether you release him from his privilege, or desire that he shall state the whole of that conversation.

Mitchell.] Mr. Wyatt is a solicitor, and therefore he has a right to exercise his discretion upon a question of privilege.

Sir *FitzRoy Kelly.* It is not for Mr. Wyatt to determine it. It is for you to determine whether or not you desire that he shall state at once, without reserve, the whole of that conversation.

Mitchell.] Mr. Wyatt is my witness.

Sir *FitzRoy Kelly.*] He is your witness, and therefore it is for you to determine whether he shall or shall not state the whole of that conversation. If you say he is to state the whole, I presume he will proceed to do so.. If you say he is not to do so, then he will not.

Mitchell.] If you will allow me to save Mr. Wyatt the trouble, I will ask him some questions.

Sir *FitzRoy Kelly.*] You may put any question you like to Mr. Wyatt.

Mitchell.] It will not bear on the case at all, because there was no mention made of the petitions relating to the case of Azeem Jah.

Sir *FitzRoy Kelly.*] You do not seem to have attended to what I have said to you.

Mitchell.] I think I have, sir.

Sir *FitzRoy Kelly*]. You either do or do not require Mr. Wyatt now to state what took place between you and him last Sunday. If you do require it, I dare say he will proceed to state it. If you do not require it, say so, and there is an end to it.

Mitchell.] I simply saw Mr. Wyatt upon the question of a memorandum he had of mine upon a private matter to obtain cash upon; I think that was the substance of our conversation.

1204. *Chairman.*] I must call upon you to say ay or no; do you wish Mr. Wyatt to consider his communication a privileged one, and not to give the Committee evidence of what then passed?—(*Mitchell.*) I shall leave it entirely in the hands of the Committee.

Chairman.] That we cannot accept. We cannot be appealed to upon that.

[The room was ordered to be cleared.

Mr.

Mr. *James Wyatt* and *George Morris Mitchell*, again called in.

Mr. *J. Wyatt*, and *G. M. Mitchell*.

7 April 1865.

1205. *Chairman.*] (To *Mitchell.*) I am desired by the Committee to tell you that Mr. Wyatt is your witness, and the communication which he made we consider to be a privileged one. It is therefore for you either to waive the privilege, and allow him to give the conversation, or to seal his mouth?—(*Mitchell.*) I shall leave it entirely to Mr. Wyatt.

Chairman.] If you do not give the Committee a distinct answer, yes or no, then we shall consider Mr. Wyatt's examination as closed, so far as that is concerned. Have you any further question to ask him?

1206–7. *Mitchell* (To Mr. *Wyatt.*)] Do you remember going to Great St. Helen's on Tuesday last, and meeting Mr. Whitehead there?—I do.

1208. Did you tell Mr. Whitehead that you had dined with Mr. Strutt on the previous Monday?—I did dine with him one day this week.

1209. That was Monday, was it not?—I believe it was.

1210. Did he not ask you upon that occasion to advise me to confess my guilt?

1211. *Chairman.*] We cannot have this?—(*Mitchell.*) It is important.

1212. *Chairman.*] It is a conversation between two persons; it is only hearsay evidence?—(*Mitchell.*) It is very material to me.

1213. Sir *FitzRoy Kelly.*] As this evidence is offered in order to contradict Mr. Strutt, Mr. Strutt should have been asked the question?—(*Mitchell.*) I understand from the messenger that Mr. Strutt was ordered to attend to-day.

1214. *Chairman.*] No; he was not?—(*Mitchell.*) Then he ought to have been.

1215. Sir *FitzRoy Kelly.*] You have had an opportunity of cross-examining Mr. Strutt?

Mitchell.] I want to know the conversation between Mr. Strutt and Mr. Wyatt on Monday night. Mr. Wyatt saw my friend Mr. Whitehead on the Tuesday morning, and then Mr. Wyatt, I think, told Mr. Whitehead that Mr. Strutt was desirous that I should acknowledge my guilt, and throw myself upon the mercy of the Committee.

Mr. *Wyatt.*] Perhaps I can save the Committee some trouble by stating, that I had a communication with Mr. Strutt, in reference to the claim which Mitchell fancied he had upon him, and in reply to that letter Mr. Strutt wrote me one, which I have not at present with me, which led to my calling upon him, and I have no hesitation in saying that Mr. Strutt's advice to me was, to advise Mitchell to acknowledge his guilt. Every conversation I have had with him has been to that effect.

[The room was ordered to be cleared.

Mr. *James Wyatt* and *George Morris Mitchell*, again called in.

Chairman.] Mr. Mitchell, you are at liberty to proceed with your examination of Mr. Wyatt, who is your own witness, but ask him only legitimate questions. We beg to direct your attention to the fact, that you cannot give hearsay evidence. Any proper question you like to put, the Committee will be very glad to listen to.

1216. *Mitchell.*] (To Mr. *Wyatt*). I think I have asked you before, Mr. Wyatt, have I acknowledged my guilt?—No.

1217. I have not?—You have not.

1218. You did not tell Mr. Strutt that I had?—I have answered that question once, and I will answer it again by saying that I did not.

1219. Sir *FitzRoy Kelly.*] Are you referring now to the conversation which took place on Sunday. If you are at all referring to that conversation we must have the whole of it?—(Mr. *Wyatt.*) I understand the question to be whether I stated to Mr. Strutt that Mitchell admitted his guilt to me.

Mr. *J. Wyatt*, and *G. M. Mitchell.*

7 April 1865.

Sir *FitzRoy Kelly.*] Let me explain this to you. You have objected, on the ground of privilege, to give any account of the conversation which took place between you and Mr. Mitchell on the Sunday, and which conversation you are supposed to have repeated to Mr. Strutt. If Mitchell asks you, and you think fit to answer anything as to any portion of that conversation, or any portion which you repeated to Mr. Strutt, you must give the whole of it; your privilege is at an end; you cannot be privileged to a part of the conversation.

1220. Mr. *Cox.*] (To *Mitchell.*) The conversation you are speaking of was not the Sunday conversation, but the Tuesday conversation?—(*Mitchell.*) Certainly not.

1221. *Mitchell.*] Will you allow me to ask Mr. Wyatt a question? (To Mr. *Wyatt.*) Did I ask you, Mr. Wyatt, to go to Mr. Strutt and tell him that I was guilty of the charges preferred against me before the Select Committee on the Azeem Jah petitions?—No, certainly not. My calling upon Mr. Strutt was my own act.

1222. Mr. *Bonham-Carter.*] Did you call on Mr. Strutt as the solicitor of Mitchell, when you so called?—I did. I called in a double capacity, as solicitor for Mr. Mitchell and also as solicitor for Mr. Strutt, in a private matter.

1223. Sir *FitzRoy Kelly.*] Then it is quite necessary you should understand that if you enter into any portion of any conversation between you and Mr. Strutt which was privileged on the ground of your being the solicitor for Mr. Mitchell, you must give the whole of the conversation. Either Mr. Mitchell must release you from your privilege, and then we shall ask you as to what took place on this Sunday as well as on any other day, or else you must be silent upon the whole?—(*Mitchell.*) There was no conversation respecting me with Mr. Strutt on the Sunday. Not to my knowledge.

1224. Sir *FitzRoy Kelly.*] You can make any statement you like?—(*Mitchell.*) Well, I have made that statement.

1225. Sir *FitzRoy Kelly.*] If you choose to release your solicitor from his privilege, you may ask your solicitor any question you please?—(*Mitchell.*) My solicitor will do what he thinks proper; he is a solicitor, and I am not.

1226. Sir *FitzRoy Kelly.*] Do you, or do you not, release him from his privilege?—(*Mitchell.*) Mr. Wyatt is my solicitor; he can do that which is proper.

1227. Sir *FitzRoy Kelly.*] You can give an answer, if you please?—(Mr. *Wyatt.*) I may state that I have advised with Mr. Mitchell out of the room, and I do not think Mr. Mitchell will press my being examined upon the conversation of Sunday.

1228 Sir *FitzRoy Kelly.*] Do you mean that he wishes the privilege to be respected?—(*Mitchell.*) Mr. Wyatt can exercise his privilege, or not.

1229. *Chairman.*] Finish your examination of Mr. Wyatt; have you any more questions to ask him?—(*Mitchell.*) I think Mr. Strutt ought to have been here to-day; I want to disprove a large amount of his evidence.

[The room was ordered to be cleared.

Mr. *James Wyatt* and *George Morris Mitchell* again called in.

1230. *Chairman.*] Mr. Mitchell, have you completed your examination of Mr. Wyatt?—(*Mitchell.*) I do not think I have anything more to ask Mr. Wyatt. I should like Mr. Strutt to produce the cheques.

1231. *Chairman.*] You are not asked anything about Mr. Strutt. Have you anything more to ask Mr. Wyatt?—(*Mitchell.*) I have nothing more to ask Mr. Wyatt.

[Mr. Wyatt then withdrew.

G. M. Mitchell.

1232. Mr. *Hennessy.*] (To *Mitchell.*) What statement do you wish to make upon the subject of Mr. Strutt?—(*Mitchell.*) I want Mr. Strutt to produce the cheques which he gave me for payment of the sums of money, as he states in his evidence. My object in that is to show that although the cheques were made payable to order, that they were not all indorsed by me.

1233. Mr.

1233. Mr. *Hennessy.*] But they were signed by some other person by your authority?—(*Mitchell.*) Yes.

1234. Mr. *Hennessy.*] Do you wish to have an opportunity to cross-examine Mr. Strutt upon the evidence he has given?—(*Mitchell.*) I do.

1235. Mr. *Hennessy.*] Have you been furnished with the evidence given yesterday?—(*Mitchell.*) No, I have not been.—(*A copy of the Minutes of yesterday was handed to Mitchell by the Committee Clerk.*)

1236. Mr. *Hennessy.*] Is this the first time you have seen that printed evidence?—(*Mitchell.*) It is.

1237. Mr. *Hennessy.*] Do you desire to peruse it, or to make any comment upon it?—(*Mitchell.*) I have hardly had time to look over it.

1238. Mr. *Hennessy.*] Were you present whilst all that evidence was given yesterday?—(*Mitchell.*) I think not.

1239. Mr. *Hennessy.*] You were present only during a portion of the time?—(*Mitchell.*) I was not here when Henry Hunt was examined. I was here when Henry Whitehead was examined.

1240. Mr. *Hennessy.*] Is that the first time you have seen Henry Hunt's evidence?—(*Mitchell.*) Yes. (*After reading Mr. Hunt's evidence.*) I am anxious to get copies of the names which Mr. Netherclift states that he believes are in my handwriting.

1241. Mr. *Hennessy.*] You are anxious to obtain copies of those names?—(*Mitchell.*) I am.

1242. Mr. *Hennessy.*] I put into your hand the copy of the list of names which Mr. Netherclift declares are fictitious, which he handed in to the Committee this morning. You will see a list of names which he states are all signed by you. Do you state that you desire to have an opportunity of calling any of those persons to disprove that evidence?—(*Mitchell.*) I have that desire.

1243. Mr. *Hennessy.*] Is this the first time you have seen that list?—(*Mitchell.*) It is.

1244. Mr. *Hennessy.*] Then you feel it is necessary for your defence that you should have an opportunity of calling some of those persons?—(*Mitchell.*) Certainly.

REPORT

FROM THE

SELECT COMMITTEE

ON

AZEEM JAH
(SIGNATURES TO PETITIONS

TOGETHER WITH THE

PROCEEDINGS OF THE COMMITTE

AND THE

MINUTES OF EVIDENCE.

Ordered, by The House of Commons, *to be Printed,*
28 *April* 1865.

[*Price* 1*s.*]

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Under 12

REPORT

FROM THE

SELECT COMMITTEE

ON

AZEEM JAH
(SIGNATURES TO PETITIONS)

(RE-COMMITTED REPORT);

TOGETHER WITH THE

PROCEEDINGS OF THE COMMITTEE,

AND THE

MINUTES OF EVIDENCE.

Ordered, by The House of Commons, *to be Printed,*
26 *May* 1865.

Jovis, 23° die Martii, 1865.

Ordered, That a Select Committee be appointed to inquire into the circumstances under which, and the Parties by whom, the Signatures were annexed to the Petitions relating to the case of Prince Azeem Jah, presented during the present Session.

Ordered, That the said Petitions be referred to the Committee.

Veneris, 24° die Martii, 1865.

Committee nominated of—

Mr. Charles Forster.	Mr. Hastings Russell.
Mr. Bonham-Carter.	Mr Alderman Salomons.
Sir James Fergusson.	Mr. Owen Stanley.
Major Gavin.	Sir FitzRoy Kelly.
Mr. Lyall.	Mr. Hennessy.
Mr. Taverner John Miller.	Mr. Cox.
Sir Colman O'Loghlen.	

Ordered, THAT the Committee have power to send for Persons, Papers, and Records.

Ordered, THAT Five be the Quorum of the Committee.

Veneris, 28° die Aprilis, 1865.

Ordered, That the Committee have power to report their Observations and Opinion, together with the Minutes of Evidence taken before them, to The House.

Martis, 9° die Maii, 1865.

Ordered, THAT the Report of the Committee on Azeem Jah (Signatures to Petitions) be re-committed to the said Committee.

Ordered, THAT the Petition of George Morris Mitchell (presented 8th May) be referred to the Committee.

Veneris, 26° die Maii, 1865.

Ordered, THAT the Committee have power to report their further Observations to The House.

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REPORT.

THE SELECT COMMITTEE to whom the REPORT of the COMMITTEE on AZEEM JAH (SIGNATURES to PETITIONS) was re-committed, and to whom a PETITION of *George Morris Mitchell* was referred:——HAVE further considered the Matters to them referred, and have agreed to the following REPORT:—

1. YOUR Committee having re-assembled, by the Order of the House, and considered the matters referred to them, together with the Petition of George Morris Mitchell, have agreed to the following Report:

2. Your Committee have carefully considered the allegations in the petition of George Morris Mitchell, and have heard the further defence of the said George Morris Mitchell, and have received the evidence of the several witnesses called by him before your Committee, and have likewise summoned before them the whole number of 27 persons named in the list referred to in the petition of George Morris Mitchell, of whom 19 have appeared, and stated that the signatures, purporting to be theirs, were fictitious, and affixed to the petitions without their knowledge or authority.

3. Your Committee, upon the whole matter, see no reason to alter or qualify their Report already made to the House, and are satisfied upon the whole of the evidence laid before them, and upon their own renewed and repeated personal inspection of the several documents and signatures forming part of that evidence, that the said George Morris Mitchell has wilfully affixed a great number of fictitious signatures to several of the petitions in question without the knowledge or authority of the persons purporting to have signed those petitions, and that the said George Morris Mitchell, as your Committee have before reported, has therein been guilty of a breach of the privileges of this House.

4. Your Committee have also to report, that Powell Marshall and Henry Whitehead having again appeared before them, your Committee have heard whatever the said Powell Marshall and Henry Whitehead have further offered in their defence, and have taken the evidence of the witnesses whom they or either of them called before your Committee, and your Committee see no reason to alter or qualify their Report already made concerning the said Powell Marshall and Henry Whitehead respectively.

26 *May* 1865.

PROCEEDINGS OF THE COMMITTEE.

Jovis, 11° *die Maii*, 1865.

MEMBERS PRESENT:

Mr. Forster.	Mr. Bonham-Carter.
Mr. Stanley.	Mr. Miller.
Mr. Cox.	Sir James Fergusson.
Mr. Salomons.	

Petition of *George Morris Mitchell* read, as follows:

"The Petition of George Morris Mitchell, of 27, Weymouth Terrace, Hackney, in the county of Middlesex, an author and compiler of Parliamentary Indexes.

"Humbly sheweth,

"That your Petitioner was engaged amongst a number of other persons to assist in procuring signatures to a number of Petitions for presentation to your honourable House, in favour of the alleged claim of His Highness Prince Azeem Jah, and for which purpose your Petitioner obtained the services of several other persons.

"That after the said Petitions were presented to your honourable House, it was alleged that many of the signatures were inaccurate, and thereupon a Select Committee was appointed by your honourable House to inquire into the validity of the same.

"That your Petitioner was ordered to attend the said Committee for examination, and heard a Report read, made by a man named George Frederic Netherclift, which was to the effect that many of the signatures to the said Petitions were in the handwriting of your Petitioner.

"That your Petitioner disproved the evidence given by the acknowledged agent of His Highness Prince Azeem Jah, and also the evidence of the said George Frederic Netherclift, as may be seen in the Minutes of Evidence taken before the Select Committee on Azeem Jah (Signatures to Petitions), and supported by the testimony of several reliable witnesses; and your Petitioner finds that the said agent John Strutt was, with one Cunningham, taken into custody by the Serjeant-at-Arms, on the 17th day of June 1851, and reprimanded by your honourable House, for fraudulently affixing a name to an Election Petition. (See p. 289, Journal 1851.)

"That your Petitioner humbly begs to draw the attention of your honourable House particularly to the following questions and answers, viz., 699 to 709, amongst numerous others taken in evidence before the said Committee, wherein will be shown that the evidence of the said George Frederic Netherclift is not reliable.

"That your Petitioner complains that he has not been fairly treated by the said Committee, inasmuch as that no opportunity was afforded him for his defence, after the meeting of the said Committee, on the 7th day of April 1865. (See Questions and Answers 1237 to 1244.)

"That your Petitioner further complains of untruthful evidence given against him before the said Committee by George Frederic Netherclift, which your Petitioner is prepared to disprove upon oath and likewise by witness. Your Petitioner considers the unfounded assertions complained of has a tendency to injure him in his profession, and further ventures to consider that the said George Frederic Netherclift has treated with contempt the dignity of your honourable House.

"That your Petitioner was prepared with evidence at the meeting of the said Committee on the 27th day of April last to disprove entirely the evidence of the said George Frederic Netherclift, that the names on the list that were shown to your Petitioner, and delivered to the said Committee, on the 7th day of April last, were not in your Petitioner's handwriting as alleged, but not being called before the said Committee on that day had no opportunity of doing so.

"That your Petitioner also further complains that he has been in attendance during the several sittings of the said Committee, which has consequently taken up a great deal of your Petitioner's time from his profession, and that he has been refused the necessary expenses for travelling, &c., usually allowed by your honourable House in such cases.

"Your Petitioner therefore humbly prays your honourable House to take into consideration the premises contained in this Petition, and grant your Petitioner that relief which to your honourable House may seem fit, and refer the case back to a Select Committee of your honourable House.

"And your Petitioner, as in duty bound, will ever pray, &c.

"*Geo. M. Mitchell.*"

Motion made and Question proposed, "That George Morris Mitchell be called in, and that

that the Chairman be requested to inform him that the Committee are ready to hear any defence he may have to make, and the evidence referred to in his Petition"—(Mr. *Cox*).—Question put, and agreed to.—George Morris Mitchell called in.—Room cleared, and Committee deliberated.

[Adjourned till Tuesday next, at Twelve o'clock.

Martis, 16° *die Maii*, 1865.

MEMBERS PRESENT:

Mr. C. FORSTER in the Chair.

Mr. Hastings Russell.	Mr. Bonham-Carter.
Mr. Stanley.	Mr. Miller.
Mr. Cox.	Sir James Fergusson.
Sir F. Kelly.	Mr. Alderman Salomons.

George Morris Mitchell, James Wakeling, George Burch, James Chartres, Charles Spurling, Charles Humphreys, George Bell Townsend, John Yerbury, Henry Shaw, Stephen Powell, Joseph Howe, Joseph Alfred Howe, Thomas Watling Short, Henry Squire, John Shepherd, Frederick Inman Sharp, Edward Stamp, Edwin Willoughby, W. N. De Mattos, J. Poingdestre, Henry Savory, Francis Robert Graham, William Facon, Frederick George Netherclift, and *Henry Whitehead,* were severally examined.

[Adjourned till Friday, at Twelve o'clock.

Veneris, 19° *die Maii*, 1865.

MEMBERS PRESENT:

Mr. C. FORSTER in the Chair.

Major Gavin.	Mr. Miller.
Mr. Bonham-Carter.	Mr. Cox.
Sir F. Kelly.	Sir James Fergusson.
Mr. Hastings Russell.	

Room cleared, and Committee deliberated.

The summoning officer was called in, and stated that the summons to attend the Committee, at 12 o'clock this day, had been personally served upon Powell Marshall.

Henry Edwards Marshall examined.

Mr. *George Morris Mitchell* put in a declaration.

Mr. *Westley Richards* was heard to apply to be allowed to correct a statement contained in the evidence of the Report of the Committee, to the effect that he had been employed as an agent to obtain signatures to Petitions in favour of Prince Azeem Jah.

Room cleared, and Committee deliberated.

Motion made, and Question proposed, "That Mr. Richards be heard on his application, as to the statement which appears in the First Report of this Committee"—(Mr. *Cox*).

Amendment proposed to leave out from the word "That" to the end of the Question, in order to insert the following words, "Mr. W. Richards be allowed to make his statement in the presence of Mr. Strutt, and that Mr. Strutt be summoned to attend the Committee,"—(Mr. *Miller*)—instead thereof.

Question put, "That the words proposed to be left out stand part of the Question."—The Committee divided:

Ayes, 2.	Noes, 6.
Mr. Hastings Russell.	Mr. Stanley.
Mr. Cox.	Sir F. Kelly.
	Mr. Bonham-Carter.
	Sir J. Fergusson.
	Major Gavin.
	Mr. Miller.

Question put, "That those words be there added."—The Committee divided:

Ayes, 6.	Noes, 2.
Mr. Hastings Russell.	Sir F. Kelly.
Mr. Stanley.	Major Gavin.
Mr. Cox.	
Mr. Bonham-Carter.	
Sir J. Fergusson.	
Mr. Miller.	

Words added.—Main Question, as amended—put, and *agreed to.*

Mr. *Westley Richards* called in, and informed that the Committee had resolved, That he be allowed to make his statement in the presence of Mr. Strutt, and that Mr. Strutt be summoned to attend the Committee.

Mr. *Frederick George Netherclift* examined.

George Morris Mitchell and *Powell Marshall* examined.

On Question being put, "And what did you do with such petition?"—And the Question being objected to:—The room was cleared, and the Committee deliberated.

Motion made, and Question put, "That the Question be put."—The Committee divided:

Ayes, 2.	Noes, 6.
Mr. Cox.	Mr. Alderman Salomons.
Mr. Miller.	Mr. Hastings Russell.
	Mr. Stanley.
	Sir F. Kelly.
	Mr. Bonham-Carter.
	Sir J. Fergusson.

Parties called in.—Examination resumed.

[Adjourned till Friday next, at Twelve o'clock.

Veneris, 26° *die Maii*, 1865.

MEMBERS PRESENT:

Mr. FORSTER in the Chair.

Mr. Hastings Russell.	Sir J. Fergusson.
Mr. Stanley.	Major Gavin.
Sir F. Kelly.	Mr. Cox.
Mr. Bonham-Carter.	

Room cleared, and Committee deliberated.

Motion made, and Question proposed, "That the Committee are of opinion that if they were acting in the capacity of magistrates taking a preliminary examination, they would be justified in committing the persons mentioned in their First Report, viz: George Morris Mitchell, Henry Whitehead, and Powell Marshall, for trial for the charges of forgery and conspiracy, but the Committee cannot, acting as they do both as judges and jurymen, find a verdict of guilty against either of the above-named persons, and therefore recommend your Honourable House, that you take no further proceedings in the matter beyond giving instructions, if you think fit, that the said persons be prosecuted either for forgery, conspiracy, or both"—(Mr. *Cox*).—Amendment proposed, to leave out from the word "That" to the end of the Question, in order to add the words "the Committee do proceed to consider their Report."—Question put, "That the words proposed to be left out stand part of the Question."—The Committee divided:

Aye, 1.	Noes, 7.
Mr. Cox.	Mr. Alderman Salomons.
	Mr. Hastings Russell.
	Mr. Stanley.
	Mr. F. Kelly.
	Mr. Bonham-Carter.
	Sir J. Fergusson.
	Major Gavin.

Word added.—Main Question, as amended, put and agreed to.—Report proposed by Sir F. Kelly, read 1°, as follows:

"1. Your Committee having re-assembled by the Order of the House, and considered the

the matters referred to them, together with the petition of George Morris Mitchell, have agreed to the following Report:

"2. Your Committee have carefully considered the allegations in the petition of George Morris Mitchell, and have heard the further defence of the said George Morris Mitchell, and have received the evidence of the several witnesses called by him before your Committee, and have likewise summoned before them the whole number of 27 persons named in the list referred to in the petition of George Morris Mitchell, of whom 19 have appeared and stated that the signatures purporting to be theirs were fictitious, and affixed to the petitions without their knowledge or authority.

"3. Your Committee, upon the whole matter, see no reason to alter or qualify their Report already made to the House, and are satisfied upon the whole of the evidence laid before them, and upon their own renewed and repeated personal inspection of the several documents and signatures forming part of that evidence, that the said George Morris Mitchell has wilfully affixed a great number of fictitious signatures to several of the petitions in question without the knowledge or authority of the persons purporting to have signed those petitions, and that the said George Morris Mitchell, as your Committee have before reported, has therein been guilty of a breach of the privileges of this House.

"4. Your Committee have also to report, that Powell Marshall and Henry Whitehead having again appeared before them, your Committee have heard whatever the said Powell Marshall and Henry Whitehead have further offered in their defence, and have taken the evidence of the witnesses whom they or either of them called before your Committee, and your Committee see no reason to alter or qualify their Report already made concerning the said Powell Marshall and Henry Whitehead respectively."

Question, That the said Report be now read a second time.—The Committee divided:

Ayes, 7.	Noe, 1.
Mr. Alderman Salomons.	Mr. Cox.
Mr. Hastings Russell.	
Mr. Stanley.	
Sir F. Kelly.	
Mr. Bonham-Carter.	
Sir James Fergusson.	
Major Gavin.	

Report considered, paragraph by paragraph.

Paragraphs 1 and 2, agreed to.

Paragraph 3 read:—Amendment proposed to leave out from the word, "Your" to the end of the paragraph, in order to insert the following words: "Committee, on careful consideration of the whole matter, are of opinion that if they were acting in the capacity of magistrates taking a preliminary examination, they would be justified in committing the persons mentioned in their First Report, viz., George Morris Mitchell, Henry Whitehead, and Powell Marshall to trial on the charges of forgery and conspiracy, but the Committee cannot, acting as they do both as judges and jurymen, find a verdict of guilty against either of the above-named persons, and therefore recommend your Honourable House that you take no further proceedings in the matter, beyond giving instructions, if you think fit, that the said persons be prosecuted for forgery and conspiracy or both."—(Mr. *Cox*), instead thereof.—Question put, That the words proposed to be left out stand part of the paragraph.—The Committee divided:

Ayes, 7.	Noe, 1.
Mr. Alderman Salomons.	Mr. Cox.
Mr. Hastings Russell.	
Mr. Stanley.	
Mr. Bonham-Carter.	
Sir FitzRoy Kelly.	
Sir J. Fergusson.	
Major Gavin.	

Paragraph agreed to.

Paragraph 4 agreed to.

Question, That this Report be the Report of the Committee to the House—put, and *agreed to.*

Ordered, To Report.

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MINUTES OF EVIDENCE.

Jovis, 11° *die Maii*, 1865.

MEMBERS PRESENT.

Mr. Bonham-Carter.
Mr. Cox.
Sir James Fergusson.
Mr. Charles Forster.
Mr. Taverner John Miller.
Mr. Alderman Salomons.
Mr. Owen Stanley.

CHARLES FORSTER, Esq., IN THE CHAIR.

George Morris Mitchell, called in.

G. M. Mitchell.
11 May 1865.

1245. *Chairman.*] I AM desired by the Committee to inform you that we are ready to hear any defence you have to offer, and the evidence referred to in your petition presented to the House?—(*Mitchell.*) I am not prepared with the full list of names to be brought before you, but I have the names of several important witnesses; if you will allow me I will call them.

1246. *Chairman.*] When shall you be ready with your witnesses. We wish to afford you all reasonable time?—(*Mitchell.*) I should like to look through the London petition, to see the addresses of some of them. I believe one or two of them have removed since they signed that petition. I wish to see whether the addresses correspond with the names in the petition.

1247. Mr. *Cox.*] You wish to get the names of those persons for the purpose of obtaining the addresses?—(*Mitchell.*) Yes.

1248. *Chairman.*] You want an opportunity of inspecting it here?—(*Mitchell.*) Yes.

[The room was ordered to be cleared.

George Morris Mitchell was again called in.

1249. *Chairman.*] WE have sent for the petition, in order to save time. Is there any other matter that you wish to mention?—(*Mitchell.*) Yes; I will give the names of the persons. Two of the witnesses have been here before, but their evidence on this examination will be very important and material for me. Their names are Whitehead and Marshall.

1250. *Chairman.*] Do you want them both?—(*Mitchell.*) Yes, they will be very important and material for me.

1251. Mr. *Cox.*] You can call those witnesses?—(*Mitchell.*) Very well. Another is a Mr. George Payne. The address is Arthur-street, Theobald's-road, Bloomsbury.

G. M. Mitchell.

11 May 1865.

1252. *Chairman.*] Do you know the number?—(*Mitchell.*) I have not the number, but I will supply that.

1253. Mr. *Cox.*] Are you reading from the book?—(*Mitchell.*) No, I am not. Then another is William Facon, 78, Cannon-street, not West. Mr. Graham is the temporary secretary, and this is a clerk appointed by the company. I think those are the only names I can give to the Committee at present, but perhaps the Committee will allow me to look at the petition. There is one observation I wish to make, if you will allow me, with regard to the summons that was served on me on the 31st of March, for attending before this Committee. The summons was served on me in Basinghall-street, which is a distance of two miles, or two miles and a half from the House of Commons. I received that summons at a quarter-past three o'clock, and I hastened down here. Mr. Poingdestre was kind enough to offer me a seat in his cab, which I did not accept; I did not get to the House till a quarter-past four, when I found that the Committee had adjourned. Then I attended the Committee at its next meeting on the Monday, which was the 3d of April, not through any special order from the House of Commons, which I did not receive till the middle of that week, but in obedience to the order I received from Mr. Forster. Why I mention this is, because it appears to have gone forth to the world, and has been printed in the newspapers, that I had flinched from attending on the Committee, which is not the fact; I have been here at all the sittings ever since.

1254. *Chairman.*] Are the names you have just given in the names of the witnesses which you state in your petition you were prepared to offer in evidence on the 27th of April last?—(*Mitchell.*) No, the names do not appear on the 27th of April.

1255. *Chairman.*] You say in your petition that you were "prepared with evidence at the meeting of the said Committee on the 27th of April last, to disprove entirely the evidence of the said George Frederic Netherclift"?—(*Mitchell.*) I am anxious to produce Marshall; he is a very important witness, indeed. I am anxious also to produce Whitehead; he is another important witness.

1256. *Chairman.*] My question is, whether the names you have given are the names of the witnesses which you were prepared to offer as evidence on the 27th of April last; you state that you were prepared with evidence on the 27th of April?—(*Mitchell.*) Yes, I was.

1257. *Chairman.*] I want to know whether the names you have just given are the names to which you refer as being the names you would have given in evidence on the 27th of April last?—(*Mitchell.*) Two of the names. If the Committee will not consider me rude, may I submit some other names; if I remember other important witnesses during the adjournment of the Committee, may I be permitted to send their names to the Chairman?

1258. Mr. *Cox.*] Witnesses that you are prepared to bring here on your behalf?—(*Mitchell.*) Yes.

1259. Mr. *Cox.*] Then you will bring them before the Committee?—(*Mitchell.*) Yes; but suppose they object to come without an order of the Committee.

[The room was ordered to be cleared.

George Morris Mitchell was again called in.

1260. *Chairman.*] THE Committee desire you to state the course you wish them to pursue with regard to this inquiry?—(*Mitchell.*) To name any day convenient to the Committee.

1261. *Chairman.*] Will Tuesday suit you?—(*Mitchell.*) Yes.

1262. *Chairman.*] Is that too soon?—(*Mitchell.*) I would rather it were this day week.

1263. *Chairman.*] We cannot name that day, but we name Tuesday, at 12 o'clock?—(*Mitchell.*) Very well.

1264. *Chairman.*] In your petition you state that on the 27th of April last you were prepared with evidence to disprove entirely the evidence of George Frederic Netherclift, the expert?—(*Mitchell.*) Yes, I was.

1265. *Chairman.*]

G. M. Mitchell.

11 May 1865.

1265. *Chairman.*] The Committee are quite ready to hear those witnesses?—(*Mitchell.*) They are not here.

1266. *Chairman.*] We shall be prepared to hear them on Tuesday next?—(*Mitchell.*) It will be necessary to send them an order from the Committee. I called on both of them this morning, and found they were not willing to attend without an order from this Committee; otherwise I should have been too glad to have brought them with me.

[The room was ordered to be cleared.

George Morris Mitchell was again called in.

1267. *Chairman.*] Mr. MITCHELL, I find that you state in your petition to the House, that "You were prepared with evidence to disprove entirely the evidence of the said George Frederic Netherclift, that the names on the list that was shown to your petitioner and delivered to the said Committee on the 7th day of April last, were not in your petitioner's handwriting as alleged, but not being called before the said Committee on that day, had no opportunity of doing so;" I have now to tell you that the Committee will be prepared to examine any of the persons named in that list whom you may wish to have examined, and also to hear any other witnesses whom you may produce in your defence. I have also to tell you that you shall have an opportunity on Tuesday next of being confronted with Mr. Graham?—(*Mitchell.*) I will give in the names of the witnesses I wish to examine.

1268. Mr. Alderman *Salomons.*] Can you give the names of those 27 witnesses?—(*Mitchell.*) I cannot; the petition has gone down stairs.

1269. Mr. Alderman *Salomons.*] The names are in the evidence?—(*Mitchell.*) Some of the names are in the evidence.

1270. Mr. Alderman *Salomons.*] They are all in the evidence?—(*Mitchell.*) There were some names got up by a Mr. Payne, who was employed by me, at his office at Watling-street in the City, and he thinks the majority of the names here were signed at his office.

1271. *Chairman.*] We have only to do with the names in your handwriting?—(*Mitchell.*) Payne is under the impression that the signatures on the London petition were signed at his office. He had a number of sheets with the printed form of petition upon them. I want to produce him and Marshall next Tuesday before the Committee.

1272. *Chairman.*] You understand what the Committee want is, first, that you point out any of the 27, and then, after that, to mention any other names. The 27 are in the list?—(*Mitchell.*) I think, in my petition, you will find I state that I can disprove the evidence of Mr. Netherclift. That will be my evidence on Tuesday.

1273. *Chairman.*] On Tuesday you will produce evidence to disprove the evidence of Mr. Netherclift?—(*Mitchell.*) Exactly.

1274. *Chairman.*] Apart from that, do you want any of those names that were given in by Mr. Netherclift as forged; do you wish any of those summoned for Tuesday?—(*Mitchell.*) I think not at present. In the interim you have given me permission to mention any other names to Mr. Stone.

1275. Mr. *Owen Stanley.*] You must understand that one distinct allegation in your petition has been read, that "you were prepared on the 27th of April last to disprove entirely the evidence of the said George Frederic Netherclift, that the names on the list that was shown to your petitioner and delivered to the said Committee on the 7th day of April last," which were handed to you and are those 27, "were not in your petitioner's handwriting as alleged, but not being called before the said Committee on that day had no opportunity of doing so." The Chairman gives you the opportunity of doing it now, and asks if you wish that all those 27 should be called before the Committee to be examined?—(*Mitchell.*) I want to produce the evidence in support of that petition, to disprove the evidence of Mr. Netherclift. It does not matter what evidence I produce, as long as it is substantial evidence to the purpose.

Martis, 16° *die Maii*, 1865.

MEMBERS PRESENT.

Mr. Bonham-Carter.
Mr. Cox.
Mr. Charles Forster.
Sir FitzRoy Kelly.
Sir James Fergusson.
Mr. Taverner John Miller.
Mr. Hastings Russell.
Mr. Alderman Salomons.
Mr. Owen Stanley.

CHARLES FORSTER, Esq., IN THE CHAIR.

George Morris Mitchell, called in.

G. M. Mitchell.
16 May 1865.

1276. *Chairman.*] YOU stated on a former occasion, in answer to a question put by a member of the Committee, that you desired an opportunity of calling some of the persons given in by Mr. Netherclift as forged names. The Committee have summoned the entire 27, in order that you may put any question that you may think right. We have also summoned Mr. Graham in order that he may be confronted with you?—(*Mitchell.*) I did not desire those gentlemen to be summoned at my request.

Mr. *George Wakeling*, called in; and Examined.

Mr. *G. Wakeling.*

1277. *Chairman.*] WHERE do you reside?—At 25, King William-street, City.

1278. What are you?—A refreshment-house keeper.

1279. Just write your name and address on that paper?—Yes. (*The Witness wrote his name and address on a sheet of paper.*)

1280. Did you sign any petition respecting the claims of the Prince Azeem Jah?—I do not recollect signing one; I do sometimes sign petitions of various kinds, but I do not recollect one of that kind; not the slightest recollection.

1281. Sir *FitzRoy Kelly.*] Have you written your name and address?—I have.

1282. *Chairman.*] Do you see what purports to be your signature there?—That is not my handwriting.

1283. *Mitchell.*] Have you the address there?—Yes.

1284. Sir *FitzRoy Kelly.*] Did you give anybody whomsoever, authority to sign your name to this petition?—No.

1285. Mr. *Cox.*] Is that your name—(*referring to the Petition*)?—It is.

1286. *Chairman.*] Now, Mr. Mitchell, you are entitled to ask the witness any question you like?—(*Mitchell.*) I do not wish to ask this witness any question.

Chairman.] The signature is given, "George Wakeling, Refreshment Rooms, 25, ditto," referring to the signature that went next but one in King William-street.

Mr. *George Burch*, called in; and Examined.

Mr. *G. Burch.*

16 May 1865.

1287. *Chairman.*] JUST look at that name; do you see there a name purporting to be "George Burch, tailor"?—Yes.

1288. Is that your signature?—No.

1289. Did you sign any such petition relating to the claims of Prince Azeem Jah?—Never.

1290. Did you give any other person power to sign for you?—No.

1291. *Mitchell.*] Is your address to that signature?—No; it is not.

Mitchell.] Does it follow that this is *the* Mr. Burch?

The *Witness.*] It is "Burch, tailor."

Mitchell.] There may be another "Burch, tailor;" I simply asked him whether there is any address, and he says "No;" there may be another "Burch, tailor," without any address.

1292. *Chairman.*] Where do you reside?—52, King William-street.

1293. Mr. *Cox.*] Is your address King William-street?—Yes.

1294. *Chairman.*] Have you any further question to put, Mr. Mitchell?—(*Mitchell.*) No, I have not.

1295. Mr. Alderman *Salomons.*] Are you a master tailor?—I am.

1296. Do you know whether there is any other man of the same name in the City?—There is no man of the same name that I know of.

1297. Mr. *Cox.*] Certainly not in King William-street?—Certainly not.

James Chartres, called in; and Examined.

J. Chartres.

1298. *Chairman.*] JUST look at this petition from the City of London; do you see there what purports to be your signature?—Something like it; but it is not written in my handwriting.

1299. Is that your handwriting?—No.

1300. Mr. *Cox.*] Or signed by your authority?—Certainly not; no person has any authority whatever to sign my name under any circumstances.

1301. Are you a seed merchant?—Yes.

1302. *Chairman.*] Did you give any authority to any person to sign your name with reference to the claims of Prince Azeem Jah?—Certainly not.

Chairman.] Now, Mr. Mitchell, you can ask any questions you like.

1303. *Mitchell.*] Is your address, or supposed address, on the petition?—My address is 40, King William-street.

1304. Is the name written James Charter?—James Chartres over the door.

1305. Is it written that way on the petition?—It appears to me spelt quite right; but I know nothing of it myself.

1306. And the address is given on the petition?—I know nothing whatever of it.

Chairman.] It is "James Chartres, Seed Merchant, King William-street."

Mitchell.] I have no further question to ask.

The *Witness.*] I can only say that I know nothing whatever of it; it has been done without my authority in any way.

1307. Mr *Cox.*] You cannot tell us whether you are the same person described as "James Charter," in Mr. Netherclift's evidence?—Distinctly, because I do not think there is any other man of the same name.

1308. Or "James Charterer"?—No, provided it is 40, King William-street.

1309. Mr. Alderman *Salomons.*] You never signed such a petition?—Certainly not.

Mr. *Charles Spurling*, called in; and Examined.

Mr. *C. Spurling.*

16 May 1865.

1310. *Chairman.*] WHERE do you reside?—27, Leadenhall-street, are my offices.

1311. What is your profession?—Colonial broker.

1312. Have you signed, or given authority to any person to sign, a petition in support of the claims of Prince Azeem Jah, presented this Session?—None whatever.

1313. Do you see what purports to be your signature, "James Spurling, Russian broker"?—Yes.

1314. Is that your signature?—It is not.

1315. Mr. Alderman *Salomons.*] Is there any address?—No actual address on the petition.

1316. Did you give any person any authority to sign it?—None whatever.

Chairman.] Now, Mr. Mitchell, you can ask any question you like.

1317. *Mitchell.*] Is there any address upon that petition, Mr. Spurling?—There is no address; it stands under the names signed, "Leadenhall-street."

1318. You are a Colonial broker?—Yes.

1319. And there you are described as a Russian broker?—In the Directory I am "Russian and Colonial broker;" they only put one style unless you pay for it.

Mitchell.] I do not wish to ask any further questions of this gentleman.

1320. Mr. Alderman *Salomons.*] The brokers are registered, many of them?—Yes.

1321. Do you know any man of the name of "Spurling" besides yourself?—There is one, a stockbroker.

1322. Not a Russian broker?—Certainly not; there is no Spurling at that address, and only one Spurling in London a stockbroker.

Mr. *Charles Humphreys*, called in; and Examined.

Mr. *C. Humphreys.*

1323. *Chairman.*] HAVE you signed any petition, presented this Session, in support of the claims of Prince Azeem Jah?—I have not.

1324. Look at the London petition; do you see what purports to be your signature, "Charles Humphreys, surveyor"?—That is not mine.

1325. Is that your signature?—No.

1326. Did you give anyone authority to sign for you?—No.

1327. Where do you reside?—61, Leadenhall-street.

1328. Mr. Alderman *Salomons.*] What is your profession?—A surveyor,

1329. *Chairman.*] Mr. Mitchell, do you want to ask any questions?—(*Mitchell.*) I have no questions to ask this gentleman.

Mr. *George Bell Townsend*, called in; and Examined.

Mr. *G. B. Townsend.*

1330. *Chairman.*] WHAT are you?—An accountant.

1331. In February and March last you lived at 49, Leadenhall-street?—I did.

1332. Have you signed any petition with respect to the claims of Prince Azeem Jah, presented during the present Session?—Never.

1333. Do you see there what purports to be your signature, "George Bell Townsend, accountant, 49, Leadenhall-street" (*referring to the petition*)?—I do.

1334. Is that your signature?—No.

1335. Did you give any person authority to sign your name to any such petition?—No.

Chairman.] Mr. Mitchell, you can now ask any questions you like.

1336. *Mitchell.*] When did you leave your late offices, 49, Leadenhall-street?—I cannot be precise to a day, but within the last three months.

Mitchell.] That is all I ask, sir.

Mr. *John Yerbury*, called in; and Examined.

Mr. *J. Yerbury*

16 May 1865.

1337. *Chairman.*] WHAT is your trade?—Tobacconist.

1338. Where do you reside?—109, Bishopsgate-street, Within.

1339. Have you signed any petition, or given any person authority to sign any petition for you relating to the claim of Prince Azeem Jah?—I have given no permission, and I do not think I have signed one. I am particular in signing petitions.

1340. Is that your signature (*referring to the petition*)?—That is not my signature.

1341. Did you give any person authority to sign that?—No.

Chairman.] Now, Mr. Mitchell, you can ask any question.

1341*. *Mitchell.*] Is the address on the petition?—No.

Chairman.] There is "ditto" given.

Mitchell.] I have no further question to ask.

1342. Mr. Alderman *Salomons.*] Bishopsgate-street Within adjoins Leadenhall-street?—Yes.

1343. *Chairman.*] Why does not your name appear in the "Post Office Directory"?—It does in this year. I have removed from 114; 114 is pulled down.

1344. Mr. Alderman *Salomons.*] You are close to Threadneedle-street?—Yes.

1345. Mr. *Cox.*] Next door to that famous coach office?—Yes; the Flower Pot.

1346. Mr. Alderman *Salomons.*] Opposite the London Tavern, that is now the Mission House?—No; opposite Threadneedle-street is the Mission House.

Mr. *Henry Shaw*, called in; and Examined.

Mr. *H. Shaw.*

1347. *Chairman.*] WHAT are you by trade?—A painter.

1348. Where do you live?—16, Abchurch-lane.

1349. Did you sign any petition in support of the claims of Prince Azeem Jah, presented during the present Session?—No.

1350. Did you give any person authority to sign for you?—I did not.

1351. Just look at this petition (*referring to the petition*); I see what purports to be your signature there affixed; is that your signature?—No.

1352. Did you give any person authority to sign for you?—No.

Chairman.] Now, Mr. Mitchell, you can ask any question you please.

Mitchell.] I have no question to ask this witness.

1353. Sir *James Fergusson.*] How is Abchurch-lane situated with regard to Bishopsgate-street or King William-street?—Abchurch-lane passes through King William-street; one part is in Lombard-street, and the other end in Cannon-street. King William-street passes through Abchurch-lane.

1354. What number in King William-street does Abchurch-lane cross?—No. 11.

Mr. *Stephen Powell*, called in; and Examined.

Mr. *S. Powell.*

1355. *Chairman.*] WHERE do you reside?—35, Leadenhall-street.

1356. What is your profession?—Australian merchant.

1357. Have you signed any petition, presented this Session, respecting the claims of Prince Azeem Jah?—No.

1358. Or given any person authority to sign for you?—No.

1359. I see your name attached to the London petition, where you are described as "Stephen Powell, merchant"; is that your signature?—No.

1360. Did you give any person authority to sign that?—No.

Chairman.] Now, Mr. Mitchell, you can ask any question you like.

1361. *Mitchell.*] Is your address on the petition?—I did not see it.

Mr. *Joseph Howe*, called in; and Examined.

Mr. *J. Howe.*

16 May 1865.

1362. *Chairman.*] WHERE do you reside?—10, Mansion House-street.

1363. What are you by trade?—A bootmaker.

1364. Are you in business by yourself, or with a partner?—My son is with me.

1365. How are you described?—Howe and Son.

1366. Have you signed any petition, presented this Session, in support of the claims of Prince Azeem Jah?—Not that I know of.

1367. Just look at that petition. I see there "Joseph How, bootmaker"?—That is not my name at all. There it is "How," and I spell my name H-o-w-e.

Mr. *Joseph Alfred Howe*, called in; and Examined.

Mr. *J. A. Howe.*

1368. *Chairman.*] YOU are in partnership with your father?—Yes.

1369. Is that your signature?—No.

1370. Did you give any person authority to sign for you?—Certainly not.

1371. *Mitchell.*] Is your address on the petition?—10, Mansion House-street.

1372. Mr. *Cox.*] (To Mr. *Joseph Howe.*) Sign your name as you sign it generally?—I do not sign it J. Howe & Son.

1373. (To Mr. *Joseph Alfred Howe.*) Do you sign J. Howe & Son?—Never.

1374. *Mitchell.*] Is your address on the petition?—No; and the name is not spelt right.

1375. Your name is not "How"?—No, Howe.

1376. It appears there as H-o-w?—It is so on the petition.

1377. Mr. *Cox.*] I should like you to sign the name of the firm?—Each signs his own name.

1378. Do you put "junior" after your name?—No; Joseph Alfred. Mr. Howe's name is Joseph only.

Mr. *Thomas Watling Short*, called in; and Examined.

Mr. *T. W. Short.*

1379. *Chairman.*] WHERE does your firm carry on business?—63, King William-street.

1380. Where do you reside?—That is our place of business.

1381. Your firm carry on business at 63, King William-street, London Bridge?—Yes.

1382. And you are opticians?—Yes.

1383. Have you signed any petition presented this Session relating to the claims of Prince Azeem Jah?—No.

1384. Have you given any other person authority to sign?—None whatever.

1385. Mr. *Cox.*] Do you know whether your partner has signed?—I know that he has not.

1386. *Chairman.*] I see in the London petition, with reference to the claims of Azeem Jah, there is the signature of your firm, "Marratt & Short, opticians." Is that your handwriting?—No.

1387. Is it your partner's?—It is not my partner's.

1388. You are confident it is not your partner's?—Yes; I have seen him write a great many times, and know that it is not the style of his handwriting.

1389. Did you give any person authority to sign for you?—No.

Chairman.] Now, Mr. Mitchell, you can ask any questions.

Mitchell.] Is the address on that petition, sir?

Chairman.] No; it is only King William-street.

Mr. *Henry Squire*, called in; and Examined.

Mr. *H. Squire.*

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1390. *Chairman.*] WHERE do you reside?—52, King William-street.

1391. What are you?—Photographic material manufacturer and optician.

1392. Have you signed any petition presented this Session, relating to the claims of Prince Azeem Jah?—No.

1393. I see on the London petition, what purports to be your signature, "Henry Squire, 52." Is that your handwriting?—No.

1394. Did you give any person authority to sign that?—No.

Chairman.] Now, Mr. Mitchell, you can ask any question you like.

Mitchell.] I do not see the name on this list in the printed evidence.

Sir *FitzRoy Kelly.*] It is a misprint by mistake. It is put "Henry Symes."

1395. *Chairman.*] Have you any question to put, Mr. Mitchell?—(*Mitchell.*) I suppose the name is on the petition.

1396. Sir *James Fergusson.*] Are you the same person described as "photographic warehouseman and crystal letter manufacturer"?—Yes.

Mr. *John Shepherd*, called in; and Examined.

Mr. *J. Shepherd.*

1397. WHERE do you reside?—In Bishopsgate-street.

1398. What are you?—Outfitter or trunkmaker.

1399. Have you signed any petition presented during the present Session respecting the claims of Prince Azeem Jah?—I have not.

1400. I see in the London petition what purports to be your signature; is that your handwriting?—No.

1401. Did you give any person authority to sign your name to it?—No.

Chairman.] Mr. Mitchell, have you any questions to ask?

Mitchell.] Is the address on the petition?

Chairman.] No; it is "John Shepherd, trunkmaker;" the last name given is in "Bishopsgate-street." Have you any other question to put?

Mitchell.] No, sir.

1402. Mr. Alderman *Salomons.*] How are you described in the Directory?—As outfitter or trunkmaker.

Frederick Inman Sharp, called in; and Examined.

F. I. Sharp.

1403. *Chairman.*] WHAT are you by trade?—Auctioneer.

1404. Where do you reside?—5, Leadenhall-street, City; I carry on my business there.

1405. Have you signed any petition respecting the claims of Prince Azeem Jah this Session?—Not to my knowledge.

1406. In the London petition I see what purports to be the signature of Frederick Sharp; is that your handwriting?—No.

1407. Did you give any person authority to sign for you?—No.

1408. *Mitchell.*] The address is not on the petition; it does not follow that the address is 11, Leadenhall-street?—I live next door but one to Madden.

1409. Mr. Alderman *Salomons.*] Auctioneer is your profession?—Yes.

1410. You would know whether there is any other Frederick Sharp, an auctioneer?—There is no other that I know of.

1411. Is there any other in London?—Not to my knowledge.

1412. *Chairman.*] Mr. Mitchell, have you any other question to put?—(*Mitchell.*) No, sir; I have no other question to put.

. Mr. *Edward Stamp*, called in; and Examined.

Mr. *E. Stamp.*

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1413. *Chairman.*] ARE you senior partner in the firm of Stamp and Willoughby, printers?—Yes.

1414. Where do you carry on your business?—At 3, Leadenhall-street.

1415. Have you signed any petition presented this Session with respect to the claims of Prince Azeem Jah?—Not that I am aware of.

1416. I see in the London petition what purports to be the signature of "Stamp and Willoughby, printers;" is that your signature?—No.

1417. Did you give anyone authority to sign for you?—No.

Mr. *Edwin Willoughby*, called in; and Examined.

Mr. *E. Willoughby.*

1418. *Chairman.*] ARE you a partner in the firm of Stamp and Willoughby, printers?—Yes.

1419. Carrying on business at 3, Leadenhall-street?—Yes.

1420. Have you signed any petition this Session in support of the claims of Prince Azeem Jah?—No.

1421. Is that your signature (*referring to the petition*)?—No.

1422. Have you given anybody authority to sign for you?—No.

1423. Sir *James Fergusson.*] Does Stamp and Willoughby's name immediately precede that of James Madden in the petition?—Yes.

1424. *Chairman.*] Have you any question to ask, Mr. Mitchell?—(*Mitchell.*) I have no question to ask this witness.

Mr. *William Nicholas De Mattos*, called in; and Examined.

Mr. *W. N. De Mattos.*

1425. *Chairman.*] WHAT is your profession?—Merchant.

1426. Where do you carry on business?—27, Leadenhall-street.

1427. Have you signed any petition presented this Session respecting the claims of Prince Azeem Jah?—Not that I am aware of.

1428. I see in the London petition what purports to be your signature, described as "William De Mattos." Is that your handwriting?—Certainly not.

1429. Did you give any person authority to sign for you?—No.

1430. Just take the petition in your hand and see what is the last address before yours?—"Charles Essex, agent, 21, Leadenhall-street."

1431. *Chairman.*] Have you any question to ask this witness, Mr. Mitchell?—(*Mitchell.*) No, I have no question to ask.

Sir *FitzRoy Kelly.*] Perhaps Mr. Stone will read out the names of those out of the 27 that have not been examined.

Mr. *James Poingdestre*, called in; and Examined.

Mr. *J. Poingdestre.*

1432. Mr. *Stone.*] (The Committee Clerk.) DID you serve a notice on Henry Savory?—Yes.

1433. Sir *FitzRoy Kelly.*] Has he been here?—He was here this morning.

1434. When did you first see him?—I saw him at 12, and half-past 12.

1435. In the room?—In the room and outside.

1436. Mr. *Stone.*] Edward King?—There is no such name, it is Edward Ring; and there is no such name as Edward Ring; it is John Ring; it is Ring and Brymer; it is in the petition "Edward Ring."

1437. J. Turner?—He has been served; a pianoforte maker; he has left Cornhill and gone to Leadenhall-street. He was served.

1438. Sir *FitzRoy Kelly.*] Have you seen him here to-day in attendance?—I have not seen him here to-day.

1439. Mr. *Stone.*] Josiah Hall?—I have not had any petitioner's name of Josiah Hall; there was no order for that name.

1440. He is down in this list, and I have no doubt a summons was sent!—I have not summoned him; I had no summons for him.

1441. Thomas

Mr. *J. Poingdestre.*

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1441. Thomas Bland?—His direction is Cornhill, but no such person is to be found there; I asked the postman if he knew the name, and he did not.

1442. John Allen?—I cannot find him; he has not been served.

1443. Stephen Curtis?—He has been here; I served him; I did not serve him personally, but the order was left at his office.

1444. Sir *FitzRoy Kelly.*] Have you seen him here to-day?—I do not know him.

1445. He has been served, and does not appear?—He does not appear.

1446. Mr. *Stone.*] William Marshall?—William Marshall I served, but I have not seen him here.

1447. Prince and Co.?—They have left Leadenhall-street, and the house is pulled down; it is an extinct firm, I think.

1448. Joseph Bowman?—I cannot find him.

1449. Andrew Boyd?—I cannot find him.

1450. Mr. *Cox.*] Was Mr. Savory summoned at your request, Mr. Mitchell?—He was summoned with the others; I am anxious to see him here. I saw him down in the lobby; if you will allow me I will try to find him.

1451. *Chairman.*] We shall now be ready to take your witnesses; in order to help you I caused certain witnesses, who were your witnesses, to be summoned?—(*Mitchell.*) I have exerted myself very much, and so has Mr. Poingdestre, to serve Mr. Marshall; I made an appointment to serve Mr. Marshall, and met Mr. Poingdestre with the order; he is a most important witness for me. If I am not asking the Committee too much, I think it is only fair that I should obtain an order from the House to desire his attendance; his evidence is all important to me.

1452. What witnesses have you here prepared to examine now?—(*Mitchell.*) Mr. Graham is one, and Mr. Facon is another.

[The room was ordered to be cleared.

Mr. *Henry Savory*, called in; and Examined.

Mr. *H. Savory.*

1453. *Chairman.*] WILL you write your name and address on that paper?—Yes. (*The Witness did as requested.*)

Chairman.] Now, Mr. Mitchell, he is your witness.

1454. *Mitchell.*] Have you seen the petition?—No.

1455. Perhaps the clerk will show it to you (*the petition was handed to the Witness*)?—That is not my writing.

1456. Is that your signature?—No. I met the gentleman of the name of Marshall four or five months ago, and he was saying something of some petition of some Indian prince, I hardly know what it was; but I, jokingly, said to him, if it will do either him or you any good you may sign my name to it.

1457. Mr. *Cox.*] Then it was signed by your authority?—Yes, if this is the petition he was speaking of; if this is about some Indian prince.

1458. *Mitchell.*] Did you see the petition when you gave him permission?—No.

1459. Did you see him write your name?—No, I did not.

1460. Will you tell the Committee whether you have any knowledge of my handwriting, and how long have you known it, do you think?—I have had a great many letters from you at times; I may have known you for 15 or 18 years.

1461. Do you think you know my handwriting?—Yes.

1462. Could you swear to it if you were put on your oath?—Yes, I think I could.

1463. Have the kindness to refer to the name of "Henry Shaw, painter"?—Yes, I see it.

1464. Tell the Committee whether that is my handwriting, to the best of your belief, or not?—I should say not.

1465. Take the one following, "John Yerbury"?—No, I should say not; that is not your handwriting; it is not like anything that I have seen of yours.

1466. Now take the name of "Edward King"?—There is no such name; I do not see anything like your handwriting at all.

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1467. Now take the name of "Henry Syme"?

Mr. *Stone.*] (The Committee Clerk.) There is no such name.

Mitchell.] I think it was intended for "Squire."

The *Witness.*] I should read this as Squire.

1468. *Mitchell.*] Tell the Committee whether that is my handwriting?—I do not think it is at all like yours; you write a bolder hand than this.

1469. Take the name of "Charles Spurling"?—"Charles Spurling, Russian broker."

1470. Yes, that is the name; tell the Committee whether that is my handwriting?—I do not think it is like yours; I do not think it is.

1471. "George Bell Townsend"?—I do not see it.

1472. *Mitchell.*] Will you have the kindness to point it out, Mr. Netherclift? (*Mr. Netherclift pointed it out to the Witness.*)—(The *Witness.*) No, that is not your handwriting; it is more like yours than the other, but it is not your handwriting.

1473. *Mitchell.*] Then take "Charles Humphreys"?—No, I do not think that is yours; I do not think so; I do not see anything like your handwriting.

1474. Could you swear that it is not?—I should be very sorry, if I could help it, swearing anything; but I do not think it is yours.

1475. Look at "William De Mattos"?—That is not your handwriting.

1476. It is not?—I do not think it is.

1477. Is that your opinion?—To the best of my belief it is not.

1478. How long have I been in the habit of corresponding with you by letter?—All 15 years I have been in the habit of receiving letters from Mr. Mitchell, not on business, but friendly letters. I never have had any business with Mr. Mitchell.

1479. Mr. *Alderman Salomons.*] What is your profession?—An auctioneer.

1480. In London?—Yes.

1481. Whereabouts?—In Brooksby-street, Liverpool-road, Islington.

1482. *Mitchell.*] I should like to see the Pimlico petition, and to ask Mr. Savory some questions upon it. (*The petition was handed to Mitchell.*) Just see if you can find the name of "Hopwood" there?—I do not see it.

1483. Do you see the name of "W. C. Mitchell, builder, Warwick-street"?—Yes, I see that.

1484. Tell the Committee whether that is my handwriting?—I do not think it is.

1485. Can you find the name of "Ginger"?—Yes, "William Ginger."

1486. Is that signature in my handwriting?—I should not recognise it as yours; I do not think it is yours.

1487. Do you see the name of "Binge"?—Yes, here is "Binge."

1488. Is that, to your belief, in my handwriting?—No, I do not think it is.

1489. Do you find the name of "Jones"?—"John Jones, 172, Cambridge-street, Pimlico"; that is not your handwriting; I am sure of that.

1490. Will you refer to the name of "Hird Charles Errington, fishmonger, of Arabella-row"?—I do not find that.

1491. Will you look at the Pimlico petition from beginning to end, and tell the Committee whether you think, or believe conscientiously, there is one signature in my handwriting or not?—I have not seen any like it.

1492. Have the kindness to look carefully through the petition, and tell the Committee whether you find any signature which you believe to be in my handwriting?—I do not see any here which I take to be yours.

1493. Now have the kindness to take the Westminster petition, and see if you can find the name of "Henry Smith"?—"Henry Stone Smith, Smith-square."

1494. Can you tell whether that is in my handwriting?—No, I do not think it is.

1495. Do you see the name of "Jennings, Canon of Westminster"?—"The Rev. John Jennings." I do not think that is in your handwriting; I do not see any similarity with your handwriting in any I have seen yet.

1496. Do you see the name of "Devonport"?—That is the fourth name in the petition; that is not in your handwriting.

1497. Refer to the name of "John Walmsley, Parliamentary Agent"?—That is

is the first; I should not think that is in your handwriting; I am not on oath; I should be sorry to swear to it. I should be sorry to swear either one way or the other; I have a very great objection to taking an oath, and that is my reason.

1498. What you have stated you really believe conscientiously?—Yes; I do not see any that I have seen yet that are like your handwriting.

1499. Just look over that petition, and tell the Committee whether you see one signature like my handwriting; examine it carefully?—No, I do not see any here that I should take for your handwriting at all; not any.

1500. How often do you think you have been in the habit of receiving letters from me during the last six months or the last twelve months?—During the last six months or twelve months, I daresay I may have had 20 or 25 letters. I burnt some of yours one day last week, when I was burning some old letters; some of yours were amongst them.

1501. Then you would naturally be a good judge of my handwriting, I should think?—I should fancy so; I see a great many people write in the course of the year; a great many signatures are before me.

1502. Just look at the words "Francis Graham," in the City petition, and just state whether you think that is in my handwriting or not?—That is the first; that is more like your handwriting than any I have seen.

1503. Tell the Committee what you believe conscientiously?—That "78, Cannon-street" is yours.

1504. You have received letters from Cannon-street from me?—Yes, and that is the same writing I have always had from Cannon-street; that "Cannon" I can swear to. That "78, Cannon-street," is in your handwriting; so is that "F" in "Francis." I should say that is your handwriting from this "78, Cannon-street." That is how all the letters I have ever had from you have been written. I should be very much inclined to say that it your handwriting.

1505. Can you find the name of "George Beckford"?—Yes, "Law Stationer, Chancery-lane."

1506. Just look at the top, and state the number of signatures to the petition?—Five hundred and eight.

1507. I think you referred to all those, generally, before?—Yes.

1508. There are some receipts I should like to see; perhaps the Committee will let me have the receipts marked "A," "B," "C," "D." (*They were handed to Mitchell.*) (*To the Witness.*) Now, will you take the receipt marked "A" in your hand?—Yes; that I should say was your handwriting.

1509. Now you will find the receipt marked B?—I think that is your handwriting.

1510. I think you will find another marked C?—I do not see C.

1511. Do you find the receipt marked D?—Yes, for 3 *l.* 3 *s.* 10 *d.*

1512. Is that in my handwriting?—I should say it is not yours.

1513. Mr. Alderman *Salomons.*] Whose signature is it that you are speaking to?—Mitchell's. The receipt marked letter "D" is very near your handwriting.

1514. Who is that signed by?—Mitchell. It is signed in the name of Mitchell, but I do not think it is your signature; the "G" is different from what I have always had in letters from you; that is the only reason why I should have a doubt about its being in your handwriting. The first part of this receipt is not your writing, that I am certain of.

1515. *Mitchell.*] The body of the receipt?—That is not your writing.

Mitchell.] I think that is sufficient; I will not trouble the Committee further.

1516. Sir *FitzRoy Kelly.*] You have looked at several signatures to the London petition, as to which you have been questioned, and you say you do not think they are in Mitchell's handwriting?—Was that the first petition I was asked about?

1517. Yes; take it in your hand, that you may be quite clear?—There were 508 signatures; I think the first is in Mitchell's handwriting.

1518. But the others to which your attention has been called you do not think are in Mitchell's handwriting?—I do not think they are; I do not see any similarity at all to his handwriting.

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1519. Do you know anybody whose handwriting you would say they were, and that they resemble?—No

1520. There is no resemblance to Mitchell's handwriting?—I do not see it in any of the signatures but this first one.

1521. But with that exception, you do not think there is any resemblance in any of those names to which your attention has been called to Mitchell's handwriting?—I do not see any.

1522. Do you know Marshall's handwriting?—I do not know Marshall's handwriting. I do not think I ever had a letter from him; I have known Marshall.

1523. How long?—About four years I may have known him; I first knew him with Mr. Mitchell.

1524. You do not know at all the character of his handwriting?—I do not think I ever saw him write; I am sure I never saw him write; and never had a letter from him.

1525. When did you see him last?—It will be either last Wednesday or Thursday.

1526. Where?—At a public-house in my street, where I smoke my cigar, in Brooksby-street, Liverpool-road.

1527. Does he resort to that place?—He called in there about half-past eight, just as it was getting dark; about half-past eight or nine o'clock; either Wednesday or Thursday.

1528. Had you any conversation with him?—Not any. I merely said "How d'ye do; how d'ye do"? I was busily engaged with three customers or clients of mine, publicans, and I had not time to speak to him.

1529. When did you see him last before that?—I cannot say.

1530. A week or two, or what?—In less time than a fortnight before that.

1531. Had you any conversation with him then?—I spent two or three hours with him then.

1532. Then I suppose you had some conversation? Did you talk to him at all about this business?—I never spoke to him after he signed my name to it.

1533. When was it he signed your name to it?—I think that was about Christmas time; I know it was in the wet and dirty weather. It was a little before or a little after Christmas, I should fancy.

1534. Where does he live?—I do not know.

1535. Did you never know?—I never had the slightest idea of where he lived, any more than you have of where I live.

1536. Did he come to you, or how came you to meet with him?—The first time I saw him he was with Mitchell.

1537. How long ago is that?—Three or four years ago: it is between three and four years ago. I have been living in Brooksby-street now three years and a half.

1538. Where did he come to you, or where did you meet when you gave him authority to sign your name?—I saw him in Fleet-street.

1539. Met him?—Met him by accident; but when I first saw him he came with Mitchell. Mr. Mitchell and others do come up to me. They know I have done my business at 7 or 8 in the evening. I have a great many private friends as well as customers who come up to spend the evening with me.

1540. They came up and came to you together?—Yes.

1541. What did they say, or what did either of them say?—It is three or four years ago.

1542. I am speaking of the time that you gave authority to Marshall to sign?—I met Marshall in Fleet-street; Mitchell was not with him then. He put some printed book into my hand about that size (*pointing to a book on the table*), and he spoke of some Indian prince. I believe he said the Government had robbed him of seven millions of money, and that he had 100,000 *l.* every year to receive from the Government, and would I sign the petition? I said, "If it would do him or you any good, you can sign the petition for me."

1543. Had you not seen him between that time and the time you saw him the other day?—Oh, frequently.

1544. What is he?—Well, I really do not know; I do not know what he is to be sure.

1545. Did you become acquainted with him through Mitchell, when Mitchell and he came to you together three or four years ago?—That is the first I saw of him, and I do not think except what I might say four or five times, or half-a-

dozen

dozen times; I cannot run back three or four years and say how many times, but I think I never saw him with Mr. Mitchell more than half-a-dozen times.

1546. Then he was on very intimate terms with Mitchell?—Yes.

1547. A friend of his?—I should think so; whether Mitchell was his employer or not I do not know.

1548. Have you no idea now where he is to be found; can you give us any information at all to enable us to trace him out?—I never knew where he lived; I knew at one time, or several times, he stayed at a public-house with me as late as half-past 11 or 12 o'clock at night, and then he has said he has had a devilish long walk to take; where it was to walk to I do not know.

1549. When did you see Mr. Mitchell about coming here?—On Friday, I think it was.

1550. Last Friday?—No, it was not; it was Thursday.

1551. Thursday last?—Thursday last.

1552. How long were you with him on that occasion?—I daresay Mitchell was an hour, or an hour and a half, or two hours with me; we had three or four glasses of whisky and water together.

1553. Where was that?—At the Rising Sun, in Brooksby-street.

1554. The same place as you have spoken of?—Yes.

1555. Did he tell you what you were to come here to prove?—He asked me if I had signed this Azeem Jah Petition; I told him no. I had on one occasion told Marshall to sign it for me, but I did not know whether he had or had not.

1556. Was that all he said about it?—That is all I remember his having said. I paid so little attention to it that I do not know. He might have said more. I do not know what he said. I was earning some money that night. I was filling up three pairs of agreements for publicans, and I was paying more attention to them than this Azeem Jah.

1557. You have not the least idea where this Marshall is to be found?—Not the slightest. I never knew where he lived. But from what I could understand from him, if I had any motive for inquiring his address from him I should have thought he lived somewhere in the neighbourhood of Victoria Park at one time.

1558. Mr. *Owen Stanley.*] In what way have you been acquainted with Mitchell for these 16 years?—Mitchell has dined with me scores of times.

1559. Have you ever had any business with him?—No business at all. The only way has been as a private friend.

1560. You have received letters from him?—Scores.

1561. Did you ever see him write?—I do not think I ever did. I never remember it.

1562. Do you think you could recognise his writing if he wrote in a disguised hand?—That I cannot say. I cannot say as to that.

1563. Suppose Mr. Mitchell had been signing these names in the petitions; do you think he would have written in his natural hand?—From what I have known of Mr. Mitchell I should say he would; that he would have written in his natural hand.

1564. When he was putting other people's signatures to the petitions?—Whether he could do such a thing as that I do not know. I should not think he would. I have known Mr. Mitchell 15 or 18 years, perhaps more; and I am sure I should not have introduced him to my wife or family if I had thought he would have done such a thing as that.

1565. You have not attended this Committee before?—I have been 50 odd years in London, and have never been in the House before; and I lost myself since I have been in it.

1566. Did you see any of the evidence that was taken on this Committee; did Mr. Mitchell give you the evidence that was taken in it?—No.

1567. Never?—No. I never read the newspapers. I have plenty of business to do. The only time that I read the newspaper was when Mr. Cox was trying to open the public-house licensing again. That is the only time I read the newspapers.

1568. You had no conversation with Mr. Mitchell about what was going on?—Yes; he asked me, as I said before, whether I signed this petition, or had signed any petition for this Indian prince.

1569. And that was all?—Yes.

Mr. *Francis Robert Graham*, called in; and Examined.

Mr. *F. R. Graham.*

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1570. *Chairman.*] Mr. Mitchell, we have recalled Mr. Graham in order to give you an opportunity of examining him as to the evidence which he gave on a former occasion. Do you wish to have that evidence read over before you examine him?—(*Mitchell.*) Yes, sir.

Chairman.] Then the Clerk had better read the evidence.

(*The Committee Clerk read the evidence of Mr. Graham*, vide *Minutes of Evidence, page* 59.)

Chairman.] Now, Mr. Mitchell, you can ask any questions you think proper.

1571. *Mitchell.*] Do you remember about the time you mentioned in your evidence before the Committee that I was in the habit of calling at your office every morning?—No, I am not aware of it.

1572. I seldom missed calling daily for my letters addressed to the City?—About the time I was before the Committee last; I do not think I had seen you for some days.

1573. I am speaking of the time that you state that you did not give your consent to my signing your name?—I never gave my consent at all.

1574. Do you remember at the time that I asked you for your consent, as to whether you would mind signing a petition, you were very busily engaged with some books belonging to the company, or some other books?—I have no recollection at all of being asked to sign a petition.

1575. And I said, "Mr. Graham, I suppose you will give your signature to this petition; I took one of the books bound in green, giving the alleged claim of the Prince Azeem Jah against the Government, and put it on your desk; and you said "Yes." Do you remember that?—Certainly not.

1576. Do you remember that I gave you a book?—Yes.

1577. Do you remember whether I put it down on the table before you at the time I asked your consent?—I have no recollection of your ever having asked my consent. I would have signed it at the time if you had presented the petition for my signature. If you had asked me to sign the petition I would have signed it with all the pleasure in life.

1578. Do you remember a few days after that time being in the back office with Mr. Facon, myself, and my clerk, Marshall, when you were placing the model of the anchor upon the floor, a very large model indeed, perhaps two yards each way, and Marshall was pasting the signatures to some petition, gumming them rather, and Marshall said, "I have got your name here, Mr. Graham;" and do you remember saying "You may sign it a hundred times if you like"?—No, I do not remember anything of the kind. The templates of the anchor I am in the habit of putting together two or three times a week sometimes.

1579. Then you do not remember it?—I do not recollect anything of the kind; I do not think anything of the sort ever occurred.

1580. You are not sworn?—I should swear it if I were asked to do so.

1581. I think you stated in your evidence that you were not acquainted with Mr. Marshall; is that so?—

Chairman.] It is so. It is Question 931: "Do you know anything of a clerk or assistant of his of the name of Marshall?" and the answer is, "No, I do not."

1582. *Mitchell.*] Do you remember giving me permission, then?—I have no recollection of giving you permission.

1583. But you think you might?—No, I never gave permission to anyone to sign my name.

1584. We have been very friendly together for how many years do you think?—Ten or twelve years.

Mitchell.] I think that is sufficient; Mr. Graham does not remember the circumstance. It is very unfortunate for me that my important witness on many other points in this case is absent, because he would be very material for me, even in this simple matter. I am as certain of it as that I am living.

1585. *Chairman.*]

Mr. F. R. Graham. 16 May 1865.

1585. *Chairman.*] What witness do you allude to?—(*Mitchell.*) Marshall, who was present at the time.

1586. Sir *FitzRoy Kelly.*] You were making some observations about Marshall, and you were saying his evidence was very material for you?—(*Mitchell.*) Yes.

1587. Sir *FitzRoy Kelly.*] You have known him a very long time, have been on the most intimate terms, and he has been in your employment. You are the person to point out where he is to be heard of. The Committee will give you every possible assistance, with the police if necessary, to trace and find him, if you can give the least clue how he is to be discovered?—(*Mitchell.*) The last time I saw Marshall was on Friday, and I then requested him, if he did not want his residence known, to meet Mr. Poingdestre to receive the summons. Mr. Whitehead, to save Mr. Poingdestre trouble, walked half a mile out of his way to meet Mr. Poingdestre, and Marshall might have been there at the same time. I am most anxious, of course, to have him.

Sir *FitzRoy Kelly.*] If you can point out any way in which we can help you, the Chairman will give you every possible assistance.

Chairman.] You will recollect, at your suggestion, I signed a summons for him.

1588. Sir *FitzRoy Kelly.*] Mr Graham, I only wish, finally, to call your attention to the importance of the matter; you will not, of course, understand that the Committee have the least doubt about your veracity; but you have said positively and distinctly that you did not in any way give any authority to Mitchell to affix your signature to the petition. Now you have had full time to reflect on it, and Mitchell has endeavoured to bring back to your recollection some supposed circumstances or occurrences; do you now adhere to what you said before; are you quite positive and certain that you did not, directly or indirectly, or in any way, give him authority to sign that petition?—I never did.

1589. And you did not let something fall that might be an encouragement to him to do it, and have forgotten it?—I do not think I did.

1590. Can you say positively that you did not?—I have not the slightest recollection of ever having done anything of the sort; it is not likely I should do so.

1591. You feel quite positive, in your own mind, that you did not?—Quite certain.

1592. Mr. Alderman *Salomons.*] Did you ever see Mitchell and Marshall at your place?—I did not know the person's name was Marshall till afterwards.

1593. Have you ever seen Mitchell and Marshall together at your place?—Yes.

1594. Are you the chief of that office?—Yes.

1595. The chief of the department, whatever it is?—Yes.

1596. Is anybody over you?—Yes, the directors.

Mr. *William Facon*, called in; and Examined.

Mr. *W. Facon.*

1597. *Mitchell.*] I BELIEVE you are storekeeper or clerk to Martin's Patent Anchor Company?—Yes.

1598. Mr. Alderman *Salomons.*] Is that the company of which the other gentleman was secretary?—Yes.

1599. *Mitchell.*] Do you remember, on one occasion, my coming to the office, and Mr. Graham being busily engaged with some books belonging to the company, or otherwise, and that I asked him in your presence whether I might put his name down to the petition for the alleged claims of Prince Azeem Jah against the Government?—No.

1600. You do not remember that?—No.

1601. Were you in the front office at the time when I gave Mr. Graham a bound book, a book bound in green, giving a statement of the claims of the prince?—No.

1602. You do not remember taking the book up, and saying "How handsomely it is bound"?—I recollect the book being left there; but I was not in the office at the time the book was left.

Mr. *W. Facon.*

16 May 1865.

1603. You do not remember me asking Mr. Graham the question, and Mr. Graham giving his consent?—Certainly not.

1604. You do not?—No.

1605. Did you not see me sign the name?—The name of what.

1606. Did you not see me sign Mr. Graham's name to the petition?—No, I never saw any petition signed.

1607. Have you seen me there with a petition, or with more than one petition?—I have seen you with several petitions.

1608. Have you seen Marshall there with sheets of paper with signatures upon them?—Yes.

1609. How many pamphlets were left at your office a long time, and how many are there now?—I dare say there may be, perhaps, a score, very likely; you used to call and fetch them away daily; either yourself or Mr. Marshall called nearly daily. You did not call daily, but some parties connected with you called for letters, and took away the pamphlets left at the office.

1610. Do you remember upon one occasion, when Mr. Graham was placing the model anchor upon the floor, and Marshall was pasting some of those signatures together, you were kind enough to go into the front office to get the gum bottle out to help him?—So far as my memory serves me, Mr. Graham was not at the office that day. The only way I can recollect about the petitions (I never saw one opened), is that you had a great number of petitions that were separate, and asked if you might use the gum bottle, that you might have them pasted together, which was done on the floor. There were no templates or model anchor on the floor at all, so far as my memory serves me; but Mr. Graham was not in the office at all.

1611. At the same time that I am speaking of, did not Marshall say, "Mr. Graham, I have got your name here"?—Certainly not; I do not recollect the question at all.

1612. You recollect the time I am speaking about?—The only time I recollect is your asking me for the gum bottle to paste the separate petitions that you had together.

1613. Then you do not recollect half-a-dozen times that Marshall asked you for the gum bottle?—No, never.

1614. You would not like to swear, would you, that you did not hear Mr. Graham give me his consent to sign his signature?—Yes, I could swear it.

1615. You could swear it?—Yes.

1616. Mr. Graham, I believe, is your superior officer?—Yes.

1617. Would it rest with Mr. Graham, when the company was in full working order, whether you were retained in the company's service or not?—Certainly not.

Mitchell.] I think in the evidence, Mr. Graham stated, that he did not know my clerk, Marshall, by name. It was either to-day, or on the former occasion.

Chairman.] It is Question 931 in the printed evidence. "Do you know anything of a clerk, or assistant of his, of the name of Marshall?—No, I do not."

1618. *Mitchell.*] On many occasions, when I and Mr. Whitehead, or Mr. Marshall called, was it not usual that we should take some refreshment, if it happened to be about lunch time?—Yes.

1619. You know the name of Mr. Marshall?—Yes.

1620. How long have you known his name?—Probably four months; from three to four months; I know the gentleman who used to come with you, but I did not know his name until some three or four months ago.

1621. Do you not think at that time, when Mr. Graham and myself and Mr. Whitehead and yourself took lunch at the office, that you would be likely to know Mr. Marshall's name?—I do not know.

1622. Not from the number of times that we have done so?—I do not know.

Mitchell.] It is very unfortunate that I have not got my witness present. I will not trouble Mr. Facon any longer.

1623. Mr. Alderman *Salomons.*] You never saw anything of what I call the paraphernalia of petitions exposed at your office?—No, Mr. Marshall mentioned that

that he had some petitions, and that he was employed by Parliamentary Agents to get some petitions signed. There were no petitions left at the office for signatures, and I had no knowledge as to whose signatures went through them.

1624. You were never asked to sign the petition?—Never.

1625. You never saw any petition there at all?—I saw several rolls of petitions when Mitchell asked if he could paste them together, but I never saw any of the petitions opened with the signatures to them.

1626. Mr. *Owen Stanley.*] They never were exposed?—Never.

1627. Who did you see with those petitions; Mr. Mitchell and Mr. Whitehead?—Mr. Mitchell and Mr. Marshall.

1628. Was not Mr. Whitehead in the habit of coming to Mitchell at Mr. Graham's office?—Occasionally; not within the last two or three months. Mr. Whitehead used to call occasionally for letters for Mitchell; for the last two or three months Whitehead has not called, but Marshall has called. If Mitchell has not called himself, Marshall has called and taken away the letters.

1629. *Mitchell.*] You remember stationery coming from Mr. Gissings; a ream of paper for me?—Yes.

1630. Do you remember the conversation we had with regard to your engrossing some of them?—Yes.

1631. Do you remember suggesting that you thought you could get some signatures in the neighbourhood of New Cross?—I might have done so; I think it is very likely.

1632. Mr. *Owen Stanley.*] Did you ever get any?—I never had a petition to solicit signatures.

Mitchell.] I will not trouble Mr. Facon any further.

1633. Sir *FitzRoy Kelly.*] Be kind enough to write your name and description on that piece of paper?—Yes. (*The Witness wrote his name and description on a sheet of paper.*)

1634. Just look at that signature (*handing petition to Witness*). Is that your signature?—No.

1635. Did you authorise anyone to sign your name to that?—No.

1636. Are you quite sure?—Quite sure.

1637. You have spoken of petitions, and things in draft, which may be of serious consequence to somebody or other, therefore be very careful?—From my knowledge of Mitchell, if he had asked me to sign the petition, I would have done it immediately; I had no idea my name was attached to the petition until Mr. Graham told me that his name was there, and mine too.

1638. That which purports to be your signature is not yours, and was not affixed by your authority?—No.

1639. You knew nothing about it until lately, when Mr. Graham told you he had seen it?—No.

1640. Have you any notion whose handwriting it resembles at all?—I have not.

1641. *Mitchell.*] Will you have the kindness to tell the Committee whether you know your signature is in my handwriting?—I do not recollect your handwriting; I could not swear to your handwriting at all, although I have noticed you write occasional memoranda; I really do not know your handwriting.

1642. Tell the Committee whether you know it is in my handwriting or not?—I have not the least idea.

1643. Sir *James Fergusson.*] If you received a letter from Mr. Mitchell, you would not, before opening it, know that it was in his handwriting?—I should not.

1644. You do not know his handwriting sufficiently well to say that a letter was from him before you opened it?—I should not.

1645. *Chairman.*] What witness do you wish to examine now Mr. Mitchell?—(*Mitchell.*) Mr. Netherclift.

Mr. *Frederick George Netherclift*, again called in; and Examined.

Mr. *F. G. Netherclift.*

16 May 1865.

1646. *Mitchell.*] WILL you please to hand me the City petition. (*The petition was handed to Mr. Mitchell.*) Will you have the kindness to look at the name "George Beckford, law stationer, Chancery-lane"?—Yes, I have it.

1647. I think you stated in answer to a question asked by Mr. Owen Stanley, "Will you look down that petition and tell us if there are many more signatures which you can recognise as being in George M. Mitchell's handwriting?—Yes, several; I think this, 'George Beckford, law stationer, Chancery-lane,' is his." Will you look down that petition and see if you can find another name, "George Beckford"?—I cannot find it.

1648. I think the Committee will find that the witness has stated here, that that is in my handwriting, that there were two George Beckford's?—I do not see another; I do not understand the question at all.

1649. If you refer to page 71, you will find you state that the signature, "George Beckford," is in the handwriting of Marshall, that is in answer to question 1156; and on the other page you state it is in my handwriting?—I do not know; I must look at my list.

1650. I believe you have your evidence sent to you for correction?—Yes.

1651. I believe you sent it back corrected?—I do not think I did; but I could not tell whether the letterpress was right or wrong, because I had no copy to compare it by; my copies were left here. I had not seen them before. (*Addressing the Chairman.*) May I make an observation to Mr. Mitchell?

Chairman.] Yes.

Witness.] When this roll was placed in my hands, Mr. Hennessy asked me to name those which I believed to be your signatures; now, if you wish to exonerate yourself, as I have never seen any of the handwriting of the persons you employed, if you give me their handwriting, if I conscientiously can, I will reverse my judgment in your favour.

Mitchell.] Am I to write them?

Sir *FitzRoy Kelly.*] Mr. Netherclift, you had better attend to any questions Mr. Mitchell puts to you, and answer those questions: if you like to accompany your answers by explanations it can be done afterwards, but till Mr. Mitchell has done with you, you had better attend to him.

1652. *Mitchell.*] Will you have the kindness to refer to page 44, commencing at question 701. This is a question to me. "Sir *FitzRoy Kelly.*] As a matter of fairness we call your attention to these signatures which have been disproved to be the signatures of the persons they purport to be, and Mr. Netherclift states they are in your handwriting. You are not bound to offer any explanation unless you wish to do so; but if you wish to make any remark upon that evidence, the Committee are prepared to hear what you have to say?—(*Mitchell.*) I think I am bound to make a remark; I think I have a right to say that Mr. Netherclift has made a great mistake. *Chairman.*] Have you any question you wish to put to Mr. Netherclift?—(*Mitchell.*) I should like to ask him a question, Sir. *Chairman.*] Then you can do so. *Mitchell.*] (To Mr. *Netherclift.*) What reason have you to think or suppose that that is my writing?—(Mr. *Netherclift.*) Because I trace all the elements of your handwriting here. *Mitchell.*] That is my handwriting (*handing the letter marked* A *to Mr Netherclift*). You find the word "Geo.," and sometimes you do it in this way. *Chairman.*] Before you cross-examine Mr. Netherclift, perhaps it would assist you to hear Mr. Netherclift's report read?—(*Mitchell.*) If you please, sir. (*The Chairman then read Mr. Netherclift's report to Mr. Mitchell.*) *Mitchell.*] (To Mr. *Netherclift.*) I want you to tell me, Mr. Netherclift, whether you see any similarity between the signature here (*referring to the letter marked* A), and "John Hopwood"?—(Mr. *Netherclift.*) Yes, that is disguised. There is your peculiar "g" in "ironmonger,' which you make like a "q." *Mitchell.*] Will you find another "g" like that; you have seen this letter?—(Mr. *Netherclift.*) I have. (*Mitchell.*) Do you see any similarity?—(Mr. *Netherclift.*) Yes, I do. *Mitchell.*] Will you show it me?—(Mr. *Netherclift.*) Yes, that is the style of the character of your handwriting.

handwriting. Of course it is disguised; I do not see any similarity. I am as certain that you wrote it as I am that you are now in existence?—That is wrongly reported. "I do not see any similarity" is your observation. Mr. *F. G. Netherclift.* 16 May 1865.

1653. *Chairman.*] Then you can give that as your explanation now?—I can perfectly.

1654. Sir *FitzRoy Kelly.*] Have you any further questions to put, Mr. Mitchell?—(*Mitchell.*) It seems very singular that there should be such an error as that.

1655. Sir *FitzRoy Kelly.*] You can put your questions, and comment on the evidence afterwards. Have you any further questions to put?—(*Mitchell.*) No, Sir.

1656. Sir *FitzRoy Kelly.*] Mr. Netherclift, your attention has been called by Mr. Mitchell to the evidence. You appear to have given an answer to Question 891, which is to this effect; just attend, and I will read it to you. "Will you look down that petition and tell us if there are many more signatures which you can recognise as being in George M. Mitchell's handwriting?—Yes, several. I think this George Beckford, law stationer, Chancery-lane, is his." Then you go on with some other names. Further on, in pages 70 and 71, we find at Question 1156, this, which I will now call your attention to. "In those names, you trace the handwriting both of Mitchell and Marshall?—Yes. The following names I believe to be in the handwriting of Marshall; Thomas Millard;" and a great many more, and among others at the top of page 71, "George Beckford and Josiah Cherry." Your answers, therefore, as they are reported here, seem to be inconsistent with your answer at the first place quoted. You are represented to have said that the name of "George Beckford" was in the handwriting of Mitchell, and in page 71, the same "George Beckford" you appear to have said was in the handwriting of Marshall. What I now put to you is, have you any explanation to offer with relation to either of these reports?—Not unless I was to look through the petition, and see whether there was another "Beckford."

1657. Take the petition; look first at the signature of "George Beckford," and then see if there is any other, and make any remark on it you think fit?—I will do so; perhaps you will allow me to retire for a short time.

1658. *Chairman.*] Mr. Mitchell, have you any other witnesses to call?—(*Mitchell.*) I thought of calling Mr. Whitehead, as to the Westminster petition.

Chairman.] Very well, do so.

Mr. *Henry Whitehead,* called in; and Examined.

1659. *Mitchell.*] TAKE the Westminster Petition, just look at the name of "Mr. John Walmisley," and tell the Committee whether you believe that name is in my handwriting?—Certainly not. Mr. *H. Whitehead.*

1660. Look at the name of "John Jennings, Canon," and tell the Committee whether you believe that name to be in my handwriting?—Certainly not.

1661. Look at the name of "Henry Stone Smith"?—That is not in your handwriting, although the "S. S." are something similar; but it certainly is not in your handwriting.

1662. Now look at the name of "Mr. Devonport," what is the Christian name?—William; that is not in your handwriting.

1663. If you were sworn, would you have any objection to state that from your knowledge of my handwriting, would you have any objection to swear whether it was or not?—Certainly not; I should have no objection. I am quite certain it is not in your handwriting.

1664. Now take the petition into your hand, and refer to the names of "William White, Denbigh-street;" "William Daniel Hawse;" "Charles Eales," and "William Ginger"?—Here is one, "William G. Hawse, Cambridge-street."

1665. Will you tell the Committee whether you think that is in my handwriting or not?—It certainly is not.

1666. Have you found another?—Here is one marked "W. C. Mitchell;" there is a cross against it.

Mr. *H. Whitehead.*

Mitchell.] I think it will save time, if the Committee will allow me, to to ask a general question of the witness.

16 May 1865.

Chairman.] Yes.

1667. *Mitchell.*] Will you look through this petition carefully, and say whether you believe, and whether you will be at liberty to swear, that there are any signatures in my handwriting or not?

Chairman.] Perhaps he had better retire to look over it.

Mr. *Frederick George Netherclift*, recalled; and further Examined.

Mr. *F. G. Netherclift.*

1668. Sir *FitzRoy Kelly.*] HAVE you now looked at the signature "George Beckford"?—Yes.

1669 Have you looked at it with attention?—Yes, and I believe it to be Mitchell's handwriting. They were put down in columns upon a piece of paper I had before me at the time, and it is very likely I put it in the wrong column; that is how I account for it. I had a piece of paper by my side, and drew lines down it.

1670. Then you think that what appears in the second report, ascribing it to Marshall, is a mistake?—Yes.

1671. In what way?—By comparison I believe it to be Mitchell's.

1672. How do you account for the name having appeared among the number of signatures which you ascribe to Mitchell?—By my putting them down on a piece of paper. I had a piece of paper by my side as I put down Marshall or Mitchell.

1673. As far as your recollection serves, and your observation will assist, do you believe that you ever deliberately ascribed that to Marshall?—No. I can show another of the same kind here. The "Georges" are very peculiar.

1674. Mr. *Owen Stanley.*] Refer back to the head of that petition; what is the first name?—"Francis R. Graham, gentleman, 78, Cannon-street."

1675. I think Mr. Mitchell has acknowledged that is in his own handwriting? Yes.

Mitchell.] That is in my handwriting.

1676. Mr. *Owen Stanley.*] Cast your eye over to the right column, and read the name there?—"George Beckford."

1677. Now tell me if you do not think they are both written with the same hand, and with the same ink?—I do think so.

1678. Sir *FitzRoy Kelly.*] It was not by comparison of some part you pointed out, but by the "George" in other signatures also?—Yes.

1679. Mr. *Owen Stanley.*] Now carry your eye down to the second name in that list?—"William Facon."

1680. Is that in the same handwriting, and with the same ink, as the other two names, Graham and Beckford?—I believe it is.

1681. You recognise the handwriting of Mitchell in that name?—I do; that "William Facon, clerk," I believe to be in Mitchell's handwriting.

1682. Not with the same pen?—No, not with the same pen; it may have been changed.

1683. Have you any reason for altering your opinion as to the other names you gave in at the former meeting of the Committee?—I have not.

1684. You still think that those names that you gave in are in the handwriting of Mitchell?—I conscientiously believe that they are.

Mitchell.] May I put a question?

Mr. *Owen Stanley.*] Yes.

1685. *Mitchell.*] Now you have stated to the Committee that the signature "Francis R. Graham" is similar to "George Beckford," I believe?—Yes, but not from comparison with this; by that I recognise your "George."

1686. Look at the "G" here?—But you do not always make that "G."

1687. And

1687. And you recognise my handwriting again with "Francis R. Graham," and with "William Facon"?—Yes.

1688. *Mitchell.*] Have you compared the signatures "Francis. R. Graham, gentleman, Cannon-street," with "George Beckford, law stationer, Chancery-lane"; Mr. Netherclift states that he does not see any similarity, although he can recognise the "G," and yet the "G" is so different in the word "George" to the "G" in "Graham."

1689. Sir *FitzRoy Kelly.*] That is an observation of your own.

(The *Witness.*] I give the same answer that I made to you, that I did not take this "George" from here at all; I took it from the "George" I see so many times occurring in these petitions.

1690. Sir *FitzRoy Kelly.*] Of which are you speaking, of Beckford or of Graham?—"George Graham;" this "George Curtis" is yours.

Mitchell.] I wish the Committee would swear me.

Chairman.] We have no power to swear you.

Mitchell.] Permit me to ask the Committee this question, whether the Committee see any similarity in those two names.

1691. *Chairman.*] Have you any other question to ask?—(*Mitchell.*) No, Sir.

1692. *Chairman.*] Mr. Netherclift, you have had your attention called to the various petitions and to the signatures put in; do you now adhere to the evidence you previously gave, or do you see any reason for modifying or altering it?—I adhere to my former opinion; I have seen nothing to alter my opinion whatever.

1693. Mr. *Owen Stanley.*] I wish to ask you a question as to the cases in which you have been examined as an expert; can you inform the Committee of any case of note, in which you have been engaged, in which your evidence has been of great service?—In the Roupell case, four months before he was given in charge at Guildford, I said those documents were forgeries; the will and other documents. I may say I have had hundreds of other cases; three or four a week sometimes. The bank of Hertford sent me 150 checks the other day, and I picked out the forged one, although they gave me no intimation on the subject.

1694. Mr. *Bonham-Carter.*] Just take those receipts and letters into your hand?—Yes.

1695. You have been examined with reference to the handwriting of Mr. Graham, the first signature in the London petition; will you take into your hand the letter marked "O"?—Yes.

1696. Take also into your hand the letter marked "E;" it is in the second packet?—Yes.

1697. Look at "78 Cannon-street" in both of those?—Yes, I have them.

1698. Now give us your opinion with reference to those two signatures as compared with that in the petition?—First of all, you wish me to identify one with the other.

1699. There are three signatures, and I wish you to offer any observations you have to make with regard to signing "78 Cannon-street;" whether they are in different hands?—They are very like, so like that I believe they were written by the same person. The only difference is in the word "street;" the "t" there is made differently. The "E" is most like.

1700. There is great similarity in those?—Yes; there is great similarity, but the "E" is most like.

Mitchell.]. Yes, there is a similarity; the petition is in my handwriting, and the letter "e" is Marshall's.

The *Witness.*] I think that is in your handwriting.

Mitchell.] Yes, and this is Marshall's; it was put in evidence before. This was written by Marshall. The signature is mine, and "John Strutt, Esq.

Mr. *F. G. Netherclift.*

16 May 1865.

1701. Mr. *Bonham-Carter.*] Now, Mr. Netherclift, look at letter "O"?—I do not remember having seen this before.

1702. Very likely not; do you see the same similarity in the "78, Cannon-street," as you do there?—Not quite so much; but it is like the letter E. It is most like the signature on the petition. I should like to have a little time to look at this, if you please. I am certain that I have never seen it before. I will withdraw and look at it.

Mr. *Henry Whitehead*, Re-called; and Examined.

Mr. *H. Whitehead.*

1703. *Mitchell.*] HAVE you looked over that petition?—Yes; and I see no writing at all in this petition that bears the slightest character or resemblance to Mr. Mitchell's handwriting. I speak from having known his handwriting for some years, having been in daily communication with him, and having documents in my possession whereby I can prove that his handwriting is distinctly opposite to the writing I see here.

Mitchell.] Perhaps the Committee would like to put some of those receipts or letters into the hands of Mr. Whitehead.

1704. Mr. *Owen Stanley.*] Mr. Whitehead, do you recognise any handwriting that you know in these signatures?—I do not.

1705. Mr. Alderman *Salomons.*] You say you do not think they are Mitchell's, but that you do not recognise any handwriting whatever that you are familiar with?—Certainly; I am certain that they are not Mitchell's, from what I have seen of them.

1706. You are not acquainted with any of the handwritings?—Not knowing whose handwritings they are; I know they are not Mitchell's.

1707. Mr. *Owen Stanley.*] You understand my question; do you recognise in those signatures any handwriting that you know?—I do not.

1708. *Chairman.*] Mr. Mitchell, do you want the receipts again?—(*Mitchell.*) I do not want the receipts again, but I thought that Mr. Whitehead will be able to tell the Committee whether or not those letters were written by me, and whether they were in my handwriting; I mean the letters that Mr. Netherclift is now looking at.

1709. *Chairman.*] Then ask him the question?—(*Mitchell.*) I would rather any Member of the Committee would ask him the question, and I walk out of the room.

1710. *Chairman.*] Ask him any question you like.—(*Mitchell.*) Just look at that letter "E," and tell the Committee whether you think that is in my handwriting or not?—No, I should think not.

1711. See if there is a signature, and tell the Committee whose signature it is?—The signature is Mr. Mitchell's.

1712. Is there any address at the bottom?—No; simply "John Strutt, Esq."

1713. Whose handwriting is that in?—That, I should think, is in yours; it is very much like it.

1714. Is there another letter there?—Yes; but that is in another handwriting, supposed to come from Mr. Strutt.

1715. Tell the Committee in whose handwriting the letter "O" is; is that in my handwriting, or not?—It is not; it is dated March 17th, 1865.

1716. Sir *FitzRoy Kelly.*] From whom to whom?—From Mr. Mitchell to Mr. Strutt.

1717. And that you say, you think, is not in Mitchell's handwriting?—The body of the letter is not in Mitchell's handwriting, but in Marshall's.

1718. You know Marshall's handwriting?—Yes, I do, well.

1719. *Mitchell.*] Is the signature in my handwriting?—It is.

1720. Looking at those two letters, letter "E" and letter "O," examine them carefully; would you be prepared to swear if the Committee thought fit to put you on your oath, that the letters themselves were not written by me, to the best of your belief?—Certainly.

1721. Sir *FitzRoy Kelly.*] In whose handwriting is letter "E"; in whose handwriting

writing is the body of that letter?—The body I should take to be in the handwriting of Marshall.

1722. The signature?—The signature I should take to be that of Mitchell.

1723. *Mitchell.*] Now take the receipt marked "D," and the letter marked "E," and tell the Committee whether you believe the signature of the receipt there is my handwriting, and whether that is my handwriting?—The signature of the letter marked "E," is in Mr. Mitchell's; but not the signature to the receipt marked "D." There is a wide distinction; if you look at them you will see it. Mr. Mitchell could never form those letters, which I know very well have been formed by Mr. Marshall.

1724. Now tell the Committee whether the body of the receipt marked "D" is in my handwriting, or not?—Certainly not; the body is in the handwriting of Marshall, I am certain.

1725. Mr. *Bonham-Carter.*] Has that letter any mark upon it (*handing a letter to the Witness*)?—It is marked "P."

1726. In whose handwriting is it?—Marshall's.

1727. *Chairman.*] Have you any other question to put?—(*Mitchell.*) No, sir; I think not.

1728. *Chairman.*] Have you any other witnesses to call?—(*Mitchell.*) No, sir; I beg to tell the Committee that the majority of the witnesses of to-day were not called at my request; I do not dispute, from the evidence of those gentlemen, that the signatures were inaccurate, but I must tell the Committee that they were not done when the petitions were under my control, and not with my knowledge nor with my consent.

Chairman.] I have only to repeat that the reason why the Committee summoned the 27 witnesses who were examined to-day was, because you wished for an opportunity to examine some of them. Therefore, they thought it better to have them all summoned.

Mitchell.] My desire was to prove that I was not guilty of the charges that were made, which I really am not. I want to prove to the Committee that those signatures which are acknowledged to be fabricated or forged, were not attached to the petitions when they were under my control, or that they were done with my consent or with my knowledge.

1729. *Chairman.*] Is Mr. Netherclift now ready?—(Mr. *Netherclift.*) No, sir, I should like a little more time.

[The room was ordered to be cleared.

1730. *Chairman.*] Mr. Mitchell, the Committee understand from you that you consider that Mr. Marshall to be a most material witness for your defence?—Yes, sir.

1731. *Chairman.*] Now, in order to afford you every facility to secure his attendance we have decided to adjourn till Friday next at 12 o'clock, and we hope you will be able to produce him. In the meantime, if you can suggest any assistance that we can render for bringing Marshall forward, we shall be glad to afford it. You have already had a summons for his attendance, and we had hoped that he would have been here. As he is not here, we will not close the inquiry without giving you an opportunity of producing him, or any other witness you may wish to call. I suppose you will be prepared to complete your case on Friday next?—(*Mitchell.*) Yes, sir.

1732. Sir *FitzRoy Kelly.*] Can you point out any place where we may have the least hope of finding Marshall?—(*Mitchell.*) I think if the summoning officer were to go to his residence, he might find out where he was gone. I shall make every effort in my power to bring him.

1733. Sir *FitzRoy Kelly.*] Can you point out anything that the Committee can do?—(*Mitchell.*) I think it will rest with myself and the summoning officer.

Chairman.] In the meantime anything that we can do we will.

Mitchell.] It is to be regretted that the Committee had so much trouble in the matter.

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Mr. *Whitehead.*] As I have been brought into this inquiry by the Committee, I should feel obliged if they will allow me on Friday to enter upon my defence, if it is convenient to them.

1734. *Chairman.*] Do you mean to call witnesses?—(Mr. *Whitehead.*) I do.

1735. *Chairman.*] Then you had better give in their names now.—(Mr. *Whitehead.*) Yes, sir; I intend to call several witnesses; but there is only one party I wish a summons for.

1736. *Chairman.*] With the exception of one witness, you will be able to produce the other witnesses yourself?—(Mr. *Whitehead.*) Yes.

1737. Sir *James Fergusson.*] Have you any idea what number of witnesses you propose to call, and what time it is likely to take?—(Mr. *Whitehead.*) I do not think more than three or four hours.

1738. Sir *James Fergusson.*] Are they persons whose names have been reported on?—(Mr. *Whitehead.*) No.

1739. *Chairman.*] Without attempting to bind you down, you do not think it necessary to call more than three or four witnesses?—(Mr. *Whitehead.*) Three or four, and possibly not so many.

1740. *Chairman.*] So that we may conclude the inquiry on Friday?—(Mr. *Whitehead.*) As far as I am concerned.

Mitchell.] If I am not out of order, may I ask that the receipts which Mr. Strutt holds, and which he alleges to be in my handwriting, may be produced on the next occasion. If he will send them down by his clerk it will be sufficient.

Chairman.] Yes, we will get them.

Mitchell.] I do not want to trouble Mr. Strutt to come himself.

Chairman.] And you will be prepared, Mr. Netherclift, to complete your evidence on Friday.

Mr. *Netherclift.*] Yes, sir.

Veneris, 19° *die Maii* 1865.

MEMBERS PRESENT.

Mr. Bonham-Carter.	Major Gavin.
Mr. Cox.	Mr. Taverner John Miller.
Mr. Charles Forster.	Mr. Hastings Russell.
Sir FitzRoy Kelly.	Mr. Alderman Salomons.
Sir James Fergusson.	Mr. Owen Stanley.

CHARLES FORSTER, Esq., IN THE CHAIR.

Mr. *James Poingdestre*, called in; and Examined.

Mr. *J. Poingdestre.*

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1741. *Chairman.*] DID you serve Mr. Powell Marshall with the Chairman's order to attend this day?—Yes.

1742. When?—Yesterday.

1743. Where?—At No. 2, Myrtle-street, Hoxton.

1744. Sir *FitzRoy Kelly.*] At what hour?—About 1 o'clock.

1745. Does he live there?—He lives there.

1746. Did he say whether he would attend or not; or did he say anything?—I told him I should have met him on Friday; he said he was not aware that he was required. I asked him if he would attend to-morrow on this summons, and he said, Yes.

1747. Did anything else pass?—Nothing.

1748. Mr. *Miller.*] Does the summons say what hour?—Yes, 12 o'clock.

1749. And neither Marshall nor Mitchell are outside now?—No.

Chairman.] Mr. Whitehead, you now have an opportunity of calling your witnesses.

Mr. *Henry Edwards Marshall*, called in; and Examined.

Mr. *H. E. Marshall.*

1750. Mr. *Whitehead.*] I SHOULD like to have the Hackney petition. (*It was handed to Mr. Whitehead.*) (*To the Witness.*) Take that petition in your hand, and you will see the name of "Henry Whitehead;" in whose handwriting do you think that is?—I should say yours, but it is not your usual signature; there is very little doubt of its being your signature.

Whitehead.] Mr. Netherclift stated that there were thirty-four signatures in my handwriting in this petition. I should like to know specifically the thirty-four that Mr. Netherclift alludes to, so that I may have some chance of rebutting that evidence by my witnesses.

1751. *Chairman.*] I think they are down at Question 1150, page 70. Those are the names, are they not, Mr. Netherclift?—(*Netherclift.*) Yes.

1752. *Whitehead.*] Mr. Marshall, first, do you see the name of Richard Miles?—Yes. Richard Miles.

1753. Is that anything like my handwriting?—There is a similarity, but it does not strike me as being your handwriting; it is similar writing to yours, but

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but I should say that I should have considerable doubt about its being your handwriting.

1754. Now, Richard Steib?—I should say that Richard Steib and Richard Miles were written by the same person. I can only say the same abode that as about the others.

1755. George Wyatt?—I should say it is not your handwriting decidedly.

1756. Daniel Lay?—I should say decidedly not Mr. Whitehead's handwriting.

1757. Mr. *Miller.*] Do you think it is the same handwriting as the others?—No. I think George Wyatt and Daniel Lay have been written by another person.

1758. Do you think those two are written by the same person?—Daniel Lay and George Wyatt look like the same handwriting, but they are different to the Richard Miles and the Richard Steib; they are not by the same person; they are distinctly not in Mr. Whitehead's handwriting; there is a freedom about that writing that I am sure Mr. Whitehead never possessed.

1759. *Whitehead.*] The next is John Street?—Most decidedly not Mr. Whitehead's handwriting.

1760. Charles Philip Townsend; is that in my handwriting, or not?—I should say not, decidedly.

1761. James Scott?—I cannot find it.

1762. Then take the next, August Venables?—Augustus Venables?

1763. Yes?—It is decidedly not Mr. Whitehead's.

1764. John Marshall; is that at all like my handwriting?—Certainly not.

1765. William Wyatt; is that at all like my handwriting?—Certainly not.

1766. Orlando Vidler?—Certainly not.

1767. Thomas Upjohn?—Certainly not.

1768. Joseph Turpin?—Certainly not.

1769. Francis Leah?—Certainly not.

1770. James Mallyn?—There is a slight similarity in that writing, but I should say most decidedly it is not in Mr. Whitehead's handwriting.

1771. Robert Nicholls?—Certainly not.

1772. Robert Thomas Holmes, and Alfred Holmes?—I cannot find those names.

1773. Thomas Shaw?—I cannot find that.

1774. George Graham?—I cannot find that.

1775. Sam Cakebread; is that anything like my handwriting?—No, certainly not.

1776. George Seear, linendraper; is that like my handwriting?—No.

1777. George Edwards?—No; that is not like your handwriting.

1778. I want you to find the signature purporting to be Miss Richmond's, particularly?—This Miss Richmond occurs between two previous names.

1779. Therefore, they could not have been arranged regularly, and classified; what is the description of this Miss Richmond; how is she described?—"Miss Richmond, Gloucester-terrace, Victoria-park."

1780. Any number?—No.

1781. Is there any similarity to my handwriting in that?—Not the slightest.

Whitehead.] This Miss Richmond is my aunt, and she never signed the petition, and she never gave any authority for her name to be put down whatever; if she had signed it she never would have signed it as Miss Richmond, but she never signed it, and never gave any authority for it being signed.

Mr. *Cox.*] Do you know whose handwriting it is, Mr. Whitehead?

1782-3. *Whitehead.*] I do not. (*To the Witness.*) The next is Rachel Tyler; is there any similarity to my handwriting in that?—Not the slightest.

1784. What is the address of that Rachel Tyler?—Fancy Repository, Prospect-place.

1785. Where?—It does not say.

1786. Catherine Smith; is that in my handwriting?—Certainly not.

1787. What is the address of that party?—"Ironmonger, Prospect-place."

1788. Where?—It does not say.

1789. Now

1789. Now look at the signature of Miss Richmond, the signature of Rachel Tyler, and the signature of Catherine Smith?—I have them all three.

1790. Is there any similarity of handwriting between the three, or either of them?—I consider there is very great similarity between the names of Miss Richmond and the name signed Rachel Tyler.

1791. How about Catherine Smith?—The similarity is such that I should fancy it was written by the same person, but, in all probability, the character is a little feigned.

1792. Robert Gynne, how is that spelt?—" Gwynne."

1793. Then that is not the same name; now, Henry Palmer, is that like my handwriting?—There is a similarity; I should very much doubt about its being in your handwriting, from many points in it; there is a slight similarity, but I should have great doubts about its being in Mr. Whitehead's handwriting.

1794. The next is Henry Chancellor?—No; certainly not your handwriting.

1795. Henry Tomlinson; is that like my handwriting?—No.

1796. Robert Watkins; is that like my handwriting?—No; decidedly not.

1797. Mr. *Cox.*] How long have you known Whitehead?—At a rough guess, I should say the last seven years; from seven to eight years.

1798. Have you seen him write?—Yes; corresponded frequently.

1799. Have you seen him write?—Yes; many years.

1800. Have you received many letters from him?—I have.

1801. And looking at those signatures to which your attention has been called, you are of opinion that they are not in his handwriting?—Most decidedly.

1802. Do you know George Morris Mitchell?—I have met him; I am acquainted with him, but not intimately.

1803. Have you ever seen him write?—No, never.

1804. Have you ever received any letters from him?—Yes.

1805. Enough to enable you to form any judgment as to whether those signatures you have been picking out are in his handwriting?—I have not examined them closely enough for that.

1806. You have marked each one?—I am not in a position to speak with certainty to them.

1807. Do you know a person of the name of Powell Marshall?—I do.

1808. How long have you known him?—Since he was a child.

1809. Have you ever seen him write?—Yes.

1810. Many times?—Yes, frequently.

1811. Many times?—Many times.

1812. Are you well acquainted with his handwriting?—I believe I could speak to it with every confidence.

1813. Be good enough to look at those signatures to which your attention has been called on that petition now before you, and tell me whether any of those signatures, in your judgment, are in the handwriting of Powell Marshall?—I can say, no; to the best of my belief, I should say no.

1814. Can you say no without looking at them again?—Yes; I could say confidently that they are not, to the best of my belief.

1815. When were you first applied to to give evidence before this Committee?—I received the notice by post last night; the order I mean.

1816. Had you received no intimation prior to that that you would be requested to attend?—Not the slightest.

1817. You never heard from Mitchell that your presence would be required?—I have not.

1818. And he never asked you to attend this Committee?—Never.

1819. Did Mr. Marshall ask you?—Never.

1820. Had Mr. Whitehead asked you?—Mr. Whitehead did hint as much, but he did not ask me positively.

1821. When did he hint as much?—About a week since.

1822. What did he tell you?—He simply said that certain signatures had been stated to be in his handwriting, and he asked me, in the event of his requiring my presence, if I would come and give evidence to what I might think on the signatures submitted.

1823. Before seeing it to-day, had that petition been produced to you for examination?—No.

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1824. Mr. *Owen Stanley.*] I think, in three of those signatures, you have stated that there was considerable similarity between Whitehead's writing and the writing of those signatures?—There were two, if I remember right, that bore a resemblance to it, but from many points in the writing I should say most distinctly they were not.

1825. Your words were, that you doubted whether they were in his handwriting?—Exactly.

1826. You could not positively say they were not?—I could not positively say they were not; to the best of my belief they were not.

1827. In looking at those signatures, did you take Whitehead's natural hand or a feigned hand?—I have taken the general characteristics of the different signatures, and comparing them in my own mind, with his own handwriting.

1828. Did you state what you were professionally?—No.

1829. What profession are you?—An accountant.

1830. Where are you an accountant?—I am living at No. 8, Upper Ebury-street, Pimlico.

1831. Sir *FitzRoy Kelly.*] Mr. Marshall, do you yourself happen to have signed any of these petitions?—I signed my own name. I believe it was to the City petition, or at least I gave my consent to have it put down.

1832. You say the City petition?—Yes.

1833. Have you any place of business in the City?—No, but of course I am there continually.

1834. At whose instance did you sign it?—Powell Marshall's.

1835. Powell Marshall asked you to do what?—To sign a petition for this Azeem Jah.

1836. Did he produce the petition to you to sign?—No, he did not; he had it not with him at the time that he asked me to sign.

1837. You have said that you signed, or authorised the signature, which of the two was it?—I authorised him to sign my name on the petition for me.

1838. Which petition?—I believe it was the City petition; he told me afterwards to which he attached my name.

1839. You authorised him to affix your signature?—Yes, to the Azeem Jah petition.

1840. Did he show you the petition?—No.

1841. Neither at the time he asked you to sign it, nor at any other time?—Nor at any other time.

1842. So that you have never seen the petition with your signature?—I have never seen the petition.

1843. Have you ever seen the petition?—Never; the only thing I have seen is a pamphlet, which contained the chief points of the matter in question.

1844. You have never seen one of those petitions in anybody's hands until now?—Until now I have never seen one before.

1845. You say that it was Powell Marshall to whom you gave authority to sign your name; did you give a similar authority to anybody else?—No, never.

1846. Were you applied to by anybody else to sign this petition?—Never.

1847. How long have you known Marshall?—From an infant.

1848. Were you in the habit of frequent or constant communication with him?—Constant.

1849. You know where he lives?—I do.

1850. Where is it?—No. 2, Myrtle-street, Hoxton.

1851. How long has he lived there?—I am not in a position to say.

1852. How long have you known him live there; how long have you possessed that knowledge?—Possibly a month or five weeks.

1853. How long have you known Whitehead?—About six or seven years, as near as I can guess.

1854. Have you been on habits of intimacy with him?—Yes, for the last four or five years very intimate.

1855. Where does he live?—I forget the exact address, but it is Victoria Park-road, I think it is; I know the house.

1856. Is that by Bethnal-green, or in that direction?—Yes.

1857. Have you seen him frequently of late?—Yes, every day we meet as a rule;

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rule; I have not seen him for the last week now, because I have been out of town.

1858. Where have you been in the habit of meeting with him?—Sometimes at his own house, and sometimes casually.

1859. And sometimes at your house?—Or at mine.

1860. Did you ever meet him at any place of public resort, like a tavern or a public-house?—We occasionally dine together; when I dine in the City, I always go to an hotel to dine, and he does the same, and we meet sometimes there.

1861. You say he never asked you to sign this petition, or any petition at all?—He never asked me to sign a petition at all.

1862. Have you ever had any conversation on the subject of this prince or the matter that was to come before Parliament?—Nothing but the conversation which he referred to when he said he should call on me to speak to his handwriting.

1863. That is very recently?—That is very recently.

1864. Were you aware that he had certain petitions, or a petition to which he was desirous of obtaining signatures?—No, I was not.

1865. Did you know that he had signed the petition himself?—No; I did not know positively.

1866. What do you mean by positively?—Simply, I presumed that he would sign it; but he never told me that he had signed it.

1867. Why did you presume that he would sign it?—Simply from knowing Powell Marshall, and as he had solicited my signature, I thought he would solicit Whitehead's.

1868. Powell Marshall and Whitehead are friends?—They are acquaintances.

1869. Have you been in the habit of corresponding with Mr. Whitehead?—Yes.

1870. You were aware that there was an inquiry before the Committee with respect to signatures supposed to be fabricated?—Yes.

1871. And that it lasted some time before the Committee made their Report?—Yes.

1872. Were you in habits of communication with Whitehead at that time?—Yes, we met occasionally.

1873. Did Whitehead never request you, or say anything to you, about coming forward during that period, and not until now?—No, he never said one word about my coming forward until the conversation to which I refer.

1874. Did you know from him that it was imputed to him (I do not say truly or not), that he was a party to some of these fictitious signatures?—Yes, I knew that from the papers.

1875. And you are sure that he did not ask you to come forward to give evidence as to his handwriting, or the character of his handwriting until yesterday, or with a view to your attendance to-day?—I am quite sure of it.

1876. Mr. *Cox.*] Did you not say that he spoke to you a week ago?—About a week, whenever it was.

1877. Sir *FitzRoy Kelly.*] No such application was made to you before the Committee reported during the first investigation, only with a view to this second investigation. Did you also know during that period, that it was imputed to Mr. Marshall that he was also a party to these signatures?—I did.

1878. And did he request you to come forward?—No.

1879. To give any evidence as to the character of his handwriting?—No, he did not.

1880. Allow me to ask, are you any relation to Mr. Powell Marshall?—I am a brother.

1881. Mr. *Stanley.*] You say you reside at Pimlico?—No. 8, Upper Ebury-street.

1882. Your brother did not ask you to sign any petition?—He asked me to sign a petition.

1883. The Pimlico one?—No; the City one, which he afterwards put my name to.

1884. Mr. *Miller.*] Having stated that you were an accountant, I wish to know whether you are a master accountant or an assistant accountant?—An assistant accountant.

1885. Is your brother in the same office with you?—No.

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1886. *Chairman.*] Mr. Whitehead, have you any further questions to ask Mr. Marshall?—(*Whitehead.*) No, sir.

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Mr. *Netherclift.*] I have found the names now that Mr. Marshall could not find before.

1887. *Whitehead.*] Is "Alfred Holmes" in my handwriting, or is it not?—Certainly not.

1888. "Thomas Shaw"?—I give the same answer to that.

1889. "George Graham;" do you give the same answer as to that?—Yes, there is no doubt about any of them.

1890. "Robert Thomas Holmes," what do you say as to that?—I should say the same of that distinctly.

1891. *Chairman.*] Have you any further question to put to Marshall, Mr. Whitehead?—(*Whitehead.*) No, sir.

1892. *Chairman.*] Mr. Powell Marshall, as your name has been mentioned by this witness, if you wish to put any questions to him, you can do so?—(Mr. *Powell Marshall.*) I do not think I have any questions to put to him.

1893. *Chairman.*] Mr. Mitchell, do you wish to ask any questions of this witness?—(*Mitchell.*) I have no questions to ask Mr. Marshall.

Whitehead.] I desire to state that I have not received any pecuniary remuneration in connection with my services on the petition, and that I never undertook to get any signatures on that representation.

1894. *Chairman.*] Have you any other remarks to make on any part of the case whatever?—(*Whitehead.*) None, sir.

1895. *Chairman*] Now, Mr. Mitchell, we will proceed with your case?—(*Mitchell.*) I wish to hand in this declaration; it is a declaration that I have made this morning.

1896. *Chairman.*] You wish to put that in as part of your case?—(*Mitchell.*) I do.

[*The following Declaration was then read.*]

"I, George Morris Mitchell, in the City of London, do solemnly and sincerely declare, that the evidence given by Robert Francis Graham and William Facon, before a Select Committee of the House of Commons, on the 16th day of May 1865, is untrue, inasmuch as the said Robert Graham and William Facon stated that I, George Morris Mitchell, had signed the names of the said Robert Francis Graham to a petition purporting to be from the inhabitants of the City of London, in favour of the alleged claim of His Highness Prince Azeem Jah upon the British Government, without his, the said Francis Robert Graham's authority, and I, the said George Morris Mitchell, do hereby solemnly declare, that consent was given thereto by the said Robert Francis Graham, in the presence of the said William Facon, and also in the presence of Powell Marshall.

"And I, George Morris Mitchell, do also further declare, that the evidence given by George Frederick Netherclift (calling himself an expert), before the aforesaid Committee, that I, George Morris Mitchell, had attached a number of signatures to certain petitions purporting to be from the inhabitants of Westminster, Pimlico, &c. &c., in my own handwriting, is untrue. And I, George Morris Mitchell, do hereby also further declare, that the signatures attached to the above-named petitions were not signed by any other than those whose signatures they purport to be, with my knowledge and consent, or when under my control. And I make this solemn declaration, conscientiously believing the same to be true, and by virtue of the provisions of an Act made and passed in the Session of Parliament of the 5th and 6th years of the reign of his late Majesty King William the Fourth, intituled 'An Act to repeal an Act of the present Session of Parliament, intituled an Act for the more effectual Abolition of Oaths and Affirmations taken and made in various departments of the State, and to substitute declarations in lieu thereof, and for the more entire suppression of voluntary and extra-judicial oaths and affidavits, and to make other provisions for the abolition of unnecessary oaths.'"

Mr. *Frederick George Netherclift*, called in; and Examined.

Mr. *F. G. Netherclift.*

1897. Mr. *Bonham-Carter.*] WILL you refer to question 1694, page 20?—Yes.

1898. Have you examined those receipts and letters which were placed in your hand?—I have.

1899. Have you any remark to make with reference to the questions asked of you by Mr. Mitchell, with regard to those letters?—What were the questions?

1900. Have you any remark to make with regard to those letters after comparing

paring them; Mr. Mitchell has called your attention to the signature of George Beckford?—Yes. Mr. *F. G. Netherclift.* 19 May 1865.

1901. And you also have had your attention called to the signatures of Francis R. Graham and of William Facon; and you have had those receipts and letters which I have just referred to, placed in your hands?—Yes.

1902. In Question 1700, there is a statement by Mitchell that the petition is in his handwriting, and the letter "E" in Marshall's, and also a statement that the letter "O" is in Marshall's handwriting; have you any remark to make on those letters, your attention having now been called to the similarity of the writing of Mitchell and Marshall?—I find the elements of both Mitchell's and Marshall's handwriting in that letter so much, that I confess I am puzzled; my belief is, that the person who wrote the signature to that also wrote the body of it.

1903. Which letter?—Letter "E"; the pen is dwelt on in the same form, exactly the same. All I can say is, that it is a marvellous imitation; the same hand that wrote the signature wrote the other part also.

1904. *Chairman.*] Mr. Mitchell, have you any question to ask Mr. Netherclift?—(*Mitchell.*) I do not think I have any question to ask Mr. Netherclift; I have put my declaration in.

1905. *Chairman.*] And there are the receipts you wished for from Mr. Strutt?—(*Mitchell.*) I want to know why Mr. Strutt is not here; I believe he was ordered to attend.

1906. *Chairman.*] You said distinctly that you did not want him to attend, because he was ill; you asked us to get you these receipts, which we have done. What witness do you call next?—(*Mitchell.*) Mr. Powell Marshall.

Mr. *Powell Marshall*, called in; and Examined.

1907. *Mitchell.*] JUST take those cheques in your hand, and tell me which cheques are endorsed by you; one or more?— Mr. *P. Marshall.*

1908. Sir *FitzRoy Kelly.*] How many cheques have you had put into your hands?—Thirteen.

1909. Sir *FitzRoy Kelly.*] Do you wish him to look at all these cheques, and to say which is in your handwriting, if any?—(*Mitchell.*) I do; and which are endorsed by himself.

1910. Sir *FitzRoy Kelly.*] Your first question is, desiring him to look at the 13 cheques, and to state what, if anything in them, is in your handwriting; is that your first question?—(*Mitchell.*) It is.

1911. Sir *FitzRoy Kelly.*] (To the *Witness.*) Then do that?—Out of the 13 cheques here, there are 12 endorsed by Mitchell, and one endorsed by me with his consent.

1912. Just mark that one in some way, so as to identify it?—It is the one dated the 16th of January 1865.

1913. There is no other of that date?—No other.

1914. Let me look at that; this one of the 16th of January is endorsed by you, but at the instance of Mitchell?—Yes.

1915. *Chairman.*] That is to say, that you endorsed Mitchell's name?—I endorsed Mitchell's name to the cheque.

1916. Sir *FitzRoy Kelly.*] All the others are in Mitchell's handwriting, you think?—Yes, all the others, I believe.

Chairman.] Continue your examination, Mr. Mitchell.

1917. *Mitchell.*] The receipts are not here. I asked for the receipts as well as the cheques. (*The receipts were handed to Mr. Mitchell.*) They are not all here; there are a great many more than these. I wanted to show the Committee that the majority of the receipts were not in my handwriting. Are there any more, Mr. Stone?—(Mr. *Stone.*) I have not seen any more.

1918. *Mitchell.*] They ought to have been sent by Mr. Strutt. He may be suffering from infirmity, but he ought to have been here. (To the *Witness*). Now, Mr. Marshall, will you refer to the City petition; look to the name of "William Facon," and tell the Committee whether it is in your handwriting, and whether William Facon gave permission to sign his name?—He did; we were both in the office together when Mr. Facon gave me permission to sign his name to this petition.

1919. Was it in the front or back office?—In the back office.

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1920. You say you were in the back office?—Mr. Mitchell, and myself, and Mr. Facon, and, I think, Mr. Graham was there. Mr. Graham was there at the time this name was written in Mitchell's writing. Francis Robert Graham was written at Mr. Graham's request in the back office. At the time I wrote Mr. Facon's name, Mr. Graham was laying down a kind of model of an anchor (Martin's patent anchor) on the floor, and Mr. Mitchell said to Graham, "I have put your name down," and Mr. Graham said, "You may put my name down as many times as you like."

1921. Did you hear Mr. Graham give his consent to sign his name to that petition?—I did.

1922. Would you swear it?—I would.

1923. It appears from the report that I got up eight petitions for Mr. Strutt in favour of the alleged claim of the Prince Azeem Jah. Now, will you tell the Committee what petitions were divided into two; some were divided into two, and some into three?—The Pimlico petition, the Westminster petition, the City petition, and the Hackney petition I know were; and, I think, some more, but I will not be certain. I know those were divided, some into two, and some into three. Mr. Strutt told Mr. Mitchell that he was paid four guineas for getting up each petition, and if the names on each petition exceeded a thousand, that he should not get anything out of them, and he wanted them divided, so that he might make more money.

1924. Mr. Strutt stated that to you?—He stated that to me on more than one occasion.

1925. They were divided?—They were divided, at his request.

1926. So that if a petition had 1,000 names attached to it, he received 12 guineas instead of four guineas?—Yes, provided it was divided into three, or if divided into two he would have eight guineas.

1927. Sir *FitzRoy Kelly.*] Mr. Strutt himself?—Yes, Mr. Strutt himself.

Mitchell.] I do not think I have any further questions to ask Mr. Powell Marshall.

1928. Sir *FitzRoy Kelly.*] Now, Mr. Marshall, I have one or two questions to put to you; just bear in mind that I do not propose to ask any questions about anything touching your own conduct, and if any question of mine seems to bear that character, you are not bound to answer it; and you are not bound, above all things, to answer any question which can inculpate or criminate yourself. I merely want to ask you with reference to what you have said with regard to these petitions and Mr. Mitchell. Tell me how many of these petitions, or any petitions in favour of Azeem Jah, do you know to have been in Mr. Mitchell's possession; how many he had the care or conduct of for signatures?—As near as I can tell, the number that was given out by Mr. Strutt to Mr. Mitchell would have been perhaps eight or ten; it might have been twelve, but in dividing them it would have made more; some being divided into two, or three, made up the quantity sent in to Mr. Strutt; it might be eighteen or nineteen.

1929. It ought to be eight or nine, but the division made it eighteen or nineteen?—Yes.

1930. When these petitions were delivered to Mr. Mitchell, they were in blank, without signatures; for example, just take the London petition, the very first name in the London petition is the one written by Mitchell himself?—The one written by Mitchell himself; the one I have in my hand now.

1931. Were those petitions, all of them, or such as you had an opportunity of seeing or knowing about, delivered in blank, without signatures, in the first instance, to Mr. Mitchell?—All of them; there were some given by Mr. Strutt to Mr. Mitchell and myself. The petitions were first engrossed in his office, and then he gave them either to Mr. Mitchell or myself.

1932. In blank?—In blank; there were no names attached to them.

1933. You were to obtain signatures?—We were to obtain signatures.

1934. You put the number at eighteen or nineteen; how many of these petitions, if not all of them, were in charge of Mr. Mitchell, for him to obtain the signatures; I do not want to inquire into any that were given to you, if any, or of which you took charge; I am inquiring as to the rest; how many petitions were there of which Mr. Mitchell himself had the management, exclusive of yours, to obtain signatures for?—Not one.

1935. Then

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1935. Then do you mean by that, that Mr. Mitchell had not to procure signatures to any of them, or that it was a matter of joint work between yourself and him as to the whole?—Mitchell gave the petitions entirely to me; he had other work to attend to. He was busily engaged on works that he was getting up. He gave them over to me to superintend the management, which I did, as I stated in the evidence before the Committee last time.

1936. How many petitions were delivered to you?—Pretty nearly all; I do not think there was more than one but what was given into my hands.

1937. We will take the London petition as an example; at the time of the London petition being handed to you, were there no other signatures attached to it than that of Mr. Graham?—No other at all.

1938. You did not say so expressly, but I understood you to imply that Mr. Facon's name was written by yourself; you have said that he authorised you to write it; you did not say you did it?—I wrote it.

1939. Do you remember when that petition was placed in your hands?—No, I am sure I do not; I never take down dates at all. I took the petitions, but I never took notice as to the times and dates at all; and I gave them to other people to obtain signatures, for I could not undertake to get the signatures. It is the first time I have ever had to do with petitions.

1940. Was anybody else that you know of entrusted by Mr. Mitchell with any of these petitions?—I think Mr. Whitehead had something to do with one of them; one of the City petitions, I think it was.

1941. Anybody else, anybody whose name we have not yet heard?—Only those employed by me.

1942. I am speaking of Mr. Mitchell, not of you?—None by him.

1943. How long was it, do you remember, between these petitions being delivered to Mitchell and their being handed by him, or whoever did hand them over, to the different Members who had to present them?—The petitions were commenced at the beginning of the year, or the latter end of last year; they were given by Mr. Strutt to Mr. Mitchell; and up to the time that the petitions were given to Mitchell to present about the beginning of March.

1944. Mr. *Cox.*] Given to Mr. Mitchell to present?—They were given by Mr. Strutt to Mr. Mitchell to get presented.

1945. Sir *FitzRoy Kelly.*] Had they been returned to Mr. Strutt?—Mr. Strutt had the custody of them from that time.

1946. From what time?—From the beginning of January.

1947. Was it then they were first delivered to Mr. Mitchell to procure signatures?—It was.

1948. Mr. Mitchell having got them, I want to know whether they were afterwards given back to Mr. Strutt?—They were.

1949. When?—As soon as they were done.

1950. When was that; how long before the time when they were to be presented?—Some considerable time; it must have been about the 6th or 7th of January. The first three were sent into Mr. Strutt, and they remained in his custody until a few days before the motion came on in the House of Commons, which I think was the 14th of March.

1951. How long had Mr. Mitchell these petitions, or any of them, in his hands?—Mr. Mitchell had but very little to do with them.

1952. Just attend to the question?—It was either the beginning of January, or the latter end of December last year.

1953. That they came into his hands?—That they came into his hands; some of them; he had them from time to time.

1954. I want to know how long he kept them in his hands?—Not more than two or three days; they were given to me, and I gave sheets of paper out to one person and another, with a printed form of the petition, for them to obtain signatures to it. I gave my address where to bring them to, and Mitchell furnished me with money from time to time, which I paid to them.

1955. You have spoken of the handwriting of some of these cheques. Just tell me, in whose handwriting is that letter January 23d 1865?—That is in Mitchell's handwriting.

1956. Both body and signature?—Both body and signature.

1957. Mr. *Cox*] Did I understand you to say, that Mr. Strutt gave the petitions to Mr. Mitchell for the purpose of getting Members to present them?—Yes.

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1958. First, Mr. Mitchell received from Mr. Strutt the petitions in blank?—Yes.

1959. First, the forms of petitions were given by Mr. Strutt to Mr. Mitchell, without any signatures to them?—Yes.

1960. Signatures having been obtained, they were returned by you or Mitchell to Mr. Strutt?—Yes.

1961. And then Mr. Strutt returned them to Mitchell to obtain Members to present them; is that so?—Yes.

1962. To deliver to Members to present?—Yes.

1963. Do you know whether all the petitions that were given to Mitchell to obtain signatures, which were returned by Mr. Mitchell to Mr. Strutt, were delivered back to Mr. Mitchell for the purpose of putting into the hands of Members?—I think they were all, or very nearly all; I think all of them were returned to Mr. Mitchell.

1964. All the petitions that Mr. Mitchell had received for the purpose of obtaining signatures to them, were returned to him to put into the hands of Members, for presentation?—Yes.

1965. You say those petitions for the purpose of obtaining signatures, were at different times given by Mr. Strutt to Mr. Mitchell?—Yes.

1966. How long did you keep any one petition after the sheets were delivered to you in blank?—After the sheets were delivered to me in blank, the utmost time that they were kept was three days; that is the utmost time they were kept.

1967. What did Mr. Mitchell do with any petition after he received it in blank from Mr. Strutt?—He gave it to me.

1968. What did you do with such petition?

[The Room was ordered to be cleared.

The Witness was again called in.

1969. I UNDERSTOOD you to say that you or Mr. Mitchell received eight or ten petitions in blank from Mr. Strutt?—Yes; without any signatures at all attached to them.

1970. Can you fix the number?—No, I cannot.

1971. Do you know how many they were converted into?—They were converted into about 19, I think.

1972. How long were they in the possession of Mr. Strutt after you delivered them to him signed?—Some of them were in his possession from the first week in January, till a few days before the motion was made in the House of Commons.

1973. On the 14th of March?—Yes; the Bethnal Green petition was the first sent into Mr. Strutt with signatures; that was sent in the first week in January, and it remained in his possession until within a few days before the motion came on.

1974. Did I understand you rightly to say, that not one petition was exclusively in Mr. Mitchell's control, from the time he received it from Mr. Strutt, to the time it was returned to him?—Not one.

1975. In answer to a question some time ago with regard to these petitions, you said, "I gave them to other people"?—Yes.

1976. Do you wish to give any explanation of that answer?—I gave them to other people. I will tell you why. My profession is really that of a draughtsman on wood; and, in the course of my profession, I am in the habit of going about London for the purpose of picking up various scenes of London life, and I never travelled without sheets of the petitions, and copies of these petitions; and I gave them to needy, intellectual men, who could go about and get signatures. I gave them to those persons, and I said, "Get me those signatures, and bring them to me, and I will give you so much for every sheet of paper you fill up." I never have had anything to do with petitions before, and I did not know I was pursuing any unusual course in so doing. I was busily engaged at that time. What I have now stated is entirely voluntary. I have been cautioned over and over again.

1977. You have no further explanation to give to the Committee, as to who these

these people were?—Not at all. I never knew the men; there were only two that I did know, and that was occasionally. Those were the names I gave in on the last examination.

1978. *Chairman.*] Now, before you go, Mr. Marshall, as regards the case against yourself, if you wish to give any explanation, we should be glad to hear anything you have to offer in defence?—(*Powell Marshall.*) I have nothing more to say than that I was not aware that I was pursuing any unusual course in getting the signatures.

1979. *Chairman.*] Have you any witnesses to call?—(*Powell Marshall.*) I do not know that I have.

1980. *Chairman.*] Have you any question to ask in re-examination, Mr. Mitchell?

1981. *Mitchell.*] (*To the Witness.*) Will you tell the Committee whether or not you got up petitions for presentation to the House of Lords at the same time that you get up these petitions to the House of Commons, duplicates?—Yes; they were got up in duplicate.

1982. So that Mr. Strutt, receiving four guineas for a petition for presentation to the House of Commons, would also receive four guineas for the presentation of the same petition to the House of Lords?—I should imagine so.

1983. Mr. *Cox.*] Do you know it?—(*Mitchell.*) I have simply asked these questions to give the Committee all the information I could, as Mr. Strutt is not here; if Mr. Strutt were here, I could give them more information.

1984. *Chairman.*] Have you got any other questions to put?—(*Mitchell.*) No, I have not.

1985. *Chairman.*] Have you anything more to say?—(*Mitchell.*) Nothing more to say, sir.

1986. *Chairman.*] And no more witnesses to call?—(*Mitchell*). I wish to call some more witnesses, but they are not here. They will not attend without a summons from the Committee. I wish to ask whether the Committee will adjourn until a future day.

1987. Sir *FitzRoy Kelly.*] What would you wish in the way of further time?—(*Mitchell*). The receipts have not been produced. My object in having the cheques produced was to show the Committee that the endorsements on the cheques were not all in my handwriting, but that there was one in the handwriting of Marshall. Why I want the receipts to be produced before the Committee is, to show that the majority of them were not in my handwriting at all.

1988. Sir *FitzRoy Kelly.*] Certain receipts have been produced?—(*Mitchell*). Four of them.

1989. Sir *FitzRoy Kelly.*] Where are the receipts; they ought to be here. The question is, whether any other receipts than those which have been produced, and if there are any, what are they?—You asked for some receipts, and the Committee sent, and desired to have the receipts. Mr. Strutt has sent those; there no others?—(*Mitchell.*) Mr. Strutt has kept some back.

1990. Sir *FitzRoy Kelly.*] What I understood the Chairman to have intimated was this; you asked for some cheques, and they have been produced; you asked for some receipts, and those receipts have been produced; you ask now for a further hearing, to examine a witness or witnesses, and you say you have not had the receipts you asked for. Explain to the Committee what receipts, besides these sent, you know to be in existence, and in Mr. Strutt's possession, which you desire to see?—(*Mitchell.*) I want those receipts which I think Mr. Strutt has kept back, which are in the handwriting of Marshall.

1991. Sir *FitzRoy Kelly.*] No Committee can go and write to Mr. Strutt in that way; if you will specify anything alleged to be in existence, and in Mr. Strutt's hands, the Committee, if they think fit, will send and ask for those receipts; but you must give some better description than "the receipts Mr. Strutt has kept back"?—(*Mitchell.*) I cannot enumerate them.

1992. *Chairman.*] What other witness do you intend to call; we understood Mr. Marshall was the only witness you intended to examine?—(*Mitchell.*) He was a very important witness, but I want also Mr. Paine.

1993. *Chairman.*] I signed a summons for him?—(Mr. *Stone.*) He did not attend; he was one of the names read out the other day as not having attended.

1994. *Chairman.*] Is there any other witness?—(*Mitchell.*) There are Messrs. Riley & Couchman, printers; but I think Mr. Riley will be sufficient.

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1995. *Chairman.*] What are they to prove?—(*Mitchell.*) That the signatures are not in my handwriting.

1996. *Chairman.*] Are those the only other witnesses you want?—(*Mitchell.*) I think those are the only other witnesses.

[The Room was ordered to be cleared.

Parties were again called in.

1997. *Chairman.*] We quite understood, Mr. Mitchell, when the inquiry was adjourned before, that it was to close to-day, and that you had only one witness remaining for examination, Mr. Marshall; however, we are willing to afford you every possible indulgence in completing your case, and therefore we propose to adjourn to Wednesday next, to procure the attendance of the three witnesses whose names you have given in; you will understand that that will be a great concession to you?—(*Mitchell.*) If the Committee think there is no more evidence necessary for my defence.

1998. *Chairman.*] You have made a request to us which we have granted; we cannot express our opinion on the evidence?—(*Mitchell.*) I very much regret that the Committee have had so much trouble.

1999. You will understand that you must be prepared on Wednesday to produce the witnesses, if not, the case will be closed?—(*Mitchell.*) What time on Wednesday?

Chairman.] Wednesday, at Twelve o'clock.

Veneris, 26° *die Maii*, 1865.

MEMBERS PRESENT:

Mr. Bonham-Carter.	Sir FitzRoy Kelly.
Mr. Cox.	Mr. Hastings Russell.
Sir James Fergusson.	Mr. Alderman Salomons.
Mr. Charles Forster.	Mr. Owen Stanley.
Major Gavin.	

CHARLES FORSTER, Esq., IN THE CHAIR.

Mr. *George Paine*, called in; and Examined.

Mr. *G. Paine.*
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2000. *Mitchell.*] WILL you allow me to have the City petition, sir—(*it was handed to Mr. Mitchell*)—just look through that petition, and see if you can find your own signature there?—I cannot find it; it is not here.

2001. Mr. *Owen Stanley.*] What is the number of the petition?—

2002. *Mitchell.*] One thousand nine hundred and twenty-two. (To the *Witness.*) I believe some sheets of one of the London petitions were left with you at your office in Watling-street?—Yes.

2003. I want to know whether any of the signatures here were signed at your office?—This was not left at my office; not this petition. This is not the petition left at my office, which has my name attached to it.

2004. Give your present address?—3, Arthur-street, Gray's Inn-road, my London residence.

2005. What is your profession or business?—An agent.

2006. *Chairman.*] A land agent?—No, agent to a Packed Parcels Company for Railways. I was manager of the Metropolitan; since that I have been through the Midland Counties as an agent for parcels. At the time the petition was at my office, I was away a portion of the time.

2007. *Mitchell.*] You remember the sheets of paper being left there for signature?—Certainly.

2008. And how many names were signed?—I cannot say; I know sheets were left there, and that I attached my name to the sheet that was left there, and I saw many of them signed; still, in my absence, I cannot be accountable for what was signed. But the names I saw attached to this petition I should know who the parties are.

2009. Were the majority of them signed by City gentlemen; or were some of them signed with their consent?—The petition was on the counter, and as the parcels were brought in for delivery and inquiries, they were asked (having had one of the pamphlets left relative to the affair) if they would sign it, and many of them did so. Some came expressly to do so, and others were solicited.

Chairman.] Perhaps, Mr. Mitchell, we had better take another witness, and Mr. Netherclift will assist the witness to find his name.

Mr. *Alfred Couchman*, called in; and Examined.

Mr. *A. Couchman.*

2010. *Chairman.*] WHAT is your profession?—A printer.

2011. What is your address?—No. 14, Devonshire-road, Greenwich; and my place of business is 80, Lower Thames-street.

2012. *Mitchell.*] Mr. Riley was ordered to attend here; perhaps you will state to the Committee why Mr. Riley cannot attend?—I believe that it is through the continuance of an engagement that he had this morning. When I

Mr. *A. Couchman.* 26 May 1865.

left him last evening, I reminded him of the engagement, and he had to attend at a place this morning on an engagement on business. I waited as long as I could at our office, but he did not return to the City. I left a note on his desk, asking him if he would attend by following me.

2013. Do you know whether your partner gave his consent?

2014. Sir *FitzRoy Kelly.*] Who is his partner?

2015. *Mitchell.*] Mr. Riley, of the firm of Riley & Couchman; do you know whether your partner Mr. Riley gave his consent to a signature to the London petition, or whether he signed his name.

2016. Sir *FitzRoy Kelly.*] Remember, in answering that question, to speak only of what you know of your own knowledge. If you heard him give his consent, or saw him testify in any way, that you may speak to it, but do not speak to what you know on other people's information?—Am I at liberty, in answering that question, to state what I have heard my partner say in regard to the matter?

2017. If it accompanied the thing itself?—It was in direct reference to the matter in question.

2018. If it accompanied the matter; if it is part of the *res gesta*?—I am not aware that Mr. Riley, my partner, has signed the petition, but I have heard him say that he did not sign it, and that he did not give his consent to the signature.

2019. *Mitchell.*] Who did he say that to?—To me.

2020. If you were to see his signature, should you know whether it was written by him or not?—Yes, I should.

2021. *Mitchell.*] Can the signature be found?

2022. *Chairman.*] What are you asking for?—(*Mitchell*). I am asking for Mr. Riley's name. I want to show it to this witness, to know whether he can tell the Committee that it is in the handwriting of his partner.

2023. Sir *FitzRoy Kelly.*] If you will only describe the petition we will produce it, and put it in the hands of the witness?—(*Mitchell.*) It is one of the London petitions.

2024. *Chairman.*] Is the name "Riles" or "Riley"?

2025. *Mitchell.*] "Riley." (To the *Witness.*) Look at that signature, and say whether you think it was signed by your partner, Mr. Riley?—I think it was not, from the firm belief that my partner's handwriting is nothing at all resembling it.

2026. You are not certain whether your partner gave his consent to any person calling at your office to sign it?—I am not certain; that is as regards my own knowledge.

Mitchell.] I think that is sufficient, sir.

2027. Sir *FitzRoy Kelly.*] What is the signature there?—"Riley & Couchman, 80, Lower Thames-street."

2028. You have said you do not believe that is in your partner's handwriting; is it in your own?—No, it is not.

2029. Do you know at all in whose handwriting it is?—I could not swear to the handwriting.

2030. Have you any belief upon it; do you sufficiently know the character of the handwriting to form any belief on the subject?—I could not state with any positiveness.

2031. You are asked to state it only from the terms of your own answer; I put the question to you, and you seemed to have some idea that it was in somebody's handwriting that you know; if you have any belief on the subject, say so, and there is an end of it. If you know the character, or think you know the character, of the handwriting, and can form any opinion or belief as to whose it is, say so?—The character of the handwriting, as immediately placed before me, struck me very much with its resemblance to copy placed in our hands by Mr. Mitchell.

2032. What copy?—Printer's copy.

2033. *Mitchell.*] Do you know whether that copy that was placed in your hands, which was an index to the Minutes of the House of Lords Proceedings, was written by me or not?—I do not know that it was, inasmuch as I did not see it written.

2034. You have seen my writing?—Yes.

2035. Can

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2035. Can you produce the copy?—I do not know that I can; that is the printer's copy.

2036. Do you think you can produce the copy in the course of an hour to the Committee?—It will take that to go to my office, and return again, leaving no time to search for the copy.

Mitchell.] The question will be, what time will be convenient for the Committee? I want to give the Committee every information I can.

2037. Sir *FitzRoy Kelly.*] Have you any further questions to put to the witness, Mr. Mitchell?—(*Mitchell.*) I should like this matter cleared up. The copy certainly was my property, but that copy is not in my handwriting.

Chairman.] If you have any statement to make, the Committee will listen to it. If you have any question to put to the witness, he will answer it, and the answer will be taken down. If you have no further question to put to Mr. Couchman, he may retire.

2038. *Mitchell.*] (To the *Witness.*) Am I to understand you cannot return with the copy in an hour?—I cannot return with the copy in an hour, from the simple fact that it will take me an hour to go to my office and back again.

Mitchell.] I do not think I have any further question to ask this witness.

Mr. *George Paine*, recalled; and further Examined.

Mr. *G. Paine.*

2039. Sir *FitzRoy Kelly.*] HAVE you looked through the petitions, Mr. Paine?—I have looked through those petitions.

2040. How many have you looked through?—Three.

2041. And your name is not attached to either?—I do not see it; the petition had my name attached to it.

2042. You do not see your name in either of the three London petitions placed in your hand?—No.

2043. I put the petition into Mr. Paine's hand to see whether he can find his name by looking more carefully over it?—No, it is not there.

Mitchell.] May I tell the Committee that the names of Riley and Couchman are not picked out by the expert Mr. Netherclift as being in my handwriting. If you refer to page 70, Question 1153.

2043.* *Chairman.*] Mr. Mitchell, have you any other question?

2044. *Mitchell.*] (To the *Witness.*) You remember a number of signatures being placed on paper to be attached to one of the London petitions?—Yes.

2045. How long did they remain in your office?—I suppose they were about a month collecting.

2046. Some in the Lords and some in the Commons?—Two petitions; one to the Lords and one to the Commons.

2047. Both London petitions?—Both left at the office in Watling-street.

2048. City petitions?—Yes.

2049. Sir *FitzRoy Kelly.*] Perhaps your name was put to the Lords' Committee?—I signed my name to both petitions, one to the Lords and one to the Commons. And likewise a gentleman of the name of Ruddiford, whom I rent the premises of, he did the same.

2050. *Mitchell.*] Do you remember any other names that were signed?—I see the names of Saunders and Mr. Boyce; those I saw sign myself.

2051. Was it "Boyd" or "Boyce"?—"Boyce."

2052. Any other names?—Very many; but I cannot call them to mind at the present moment.

2053. How many do you think there were altogether?—I cannot say; the petition was taken away while I was in the country.

2054. One hundred and fifty or two hundred?—I cannot say; I know that the first sheets were filled up, and fresh sheets supplied.

Mitchell.] I do not think I have any further question to ask this witness.

2055. *Chairman.*] Mr. Mitchell, have you any other witnesses to call?—(*Mitchell.*) Mr. Lloyd Williams, from Manchester.

Mr. *Lloyd Williams*, called in; and Examined.

Mr. *L. Williams.*

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2056. *Mitchell.*] WHAT are you?—A Civil Engineer.

2057. Sir *FitzRoy Kelly.*] Residing at Manchester?—Yes.

2058. *Mitchell.*] Did you get up a number of petitions for Manchester, Salford, and other places, in favour of the alleged claim of the Prince Azeem Jah on the British Government?—I did.

2059. You did get them up?—So far as this, I got them up by agents; I did not personally do so.

2060. It is stated in evidence given by Mr. Strutt, that you got up petitions at the following places, Salford, Bury, Ashton-under-Lyne, Oldham, Manchester, Wrexham, Staleybridge, and Chester?—Yes, that is perfectly right.

2061. Did you get up those petitions yourself?—No, certainly not.

2062. You employed other persons?—I employed other persons. It would not have answered my purpose to have done so personally.

2063. Were they paid?—They were paid proportionably to what they did; in fact, I do not consider I was paid at all, myself, but Mr. Strutt being an old friend of mine, the expenses I received from him went to my agents.

2064. Suppose there were any inaccuracies in the signatures to the petitions that were got up at those places; if they were not signed by the parties they were represented to be signed by, would you consider yourself responsible?—Certainly not; I employed respectable persons, and I relied on their character.

2065. Supposing you were to employ yourself in getting up a petition in Manchester and other places?—I would not be employed personally in such a matter; I would not be seen in it.

2066. If any person or persons were to give you their consent to write their names to a petition to Parliament, would you consider those to be legitimate signatures?—That is a peculiar question; I have known even a man signing another man's name to a bill of exchange by permission or sanction. If I give my sanction to my name being put down I should say that I was responsible for the act of the person who did it; but that is mere matter of opinion.

Mitchell.] I think that will be sufficient, sir.

2067. *Chairman.*] Have you any further witnesses to call, or anything further to say?—(*Mitchell.*) Yes, there are several more witnesses.

2068. *Chairman.*] How many more witnesses have you in attendance?—(*Mitchell.*) I have another witness, a Mr. Snell, a solicitor.

2069. *Chairman.*] Any one else in attendance?—(*Mitchell.*) One; I think that is all.

2070. *Chairman.*] Is it George Snell?—(*Mitchell.*) Yes. The petitions have been so divided by Mr. Strutt that I do not know what petitions there are; and some have been kept back; I have no doubt about that.

Mr. *George Wells Snell*, called in; and Examined.

Mr. *G. W. Snell.*

Witness.] I SIGNED a petition, but how I signed it I do not know now.

2071. Sir *FitzRoy Kelly.*] Do you remember whether it was a City of London petition?—I signed it in the City; it was signed after Sir FitzRoy's circular was handed to me; I did not sign it until after having read that over.

2072. *Chairman.*] Please to write your name and address on that sheet of paper?—Yes (*the Witness did so*). Whether I described myself as solicitor or attorney, I do not know which.

2073. You are now asked to write down your ordinary signature?—I have done so. "Pinner's Hall;" I think that is the way I have signed the petition. I know I did sign the petition. I beg you to understand that I would not be positive how I signed the petition. That is my usual signature. I know I did sign the petition, and I shall be able to say whether it is my signature or not when I see it.

2074. *Mitchell.*] Do you remember any other name being attached to the petition at the time you signed it?—No; I do not. I remember your handing me the petition to sign, and previous to that, a few days before, you gave me a book

book. I certainly did read that, and signed it afterwards. There were two or three friends with me at the time I met Mr. Mitchell with the petition, and they asked me what it was about. I told them I had read the book, and I felt it nothing but fair and just that the man should have some recompense, and I said, "Shall I sign for you?" and Mr. Mitchell said, "Certainly not; do not sign for any one; let these gentlemen sign for themselves." I have never seen the petition from that hour to this. Mr. *G. W. Snell.* 26 May 1865.

2075. Do you remember the names of any other gentlemen who signed the petition at that time?—I do not now recollect.

Mr. *George Paine*, recalled; further Examined.

2076. *Chairman.*] WILL you now look at that petition?—That is not my signature, the name "George Payne, wine merchant, 52." My signature is signed at the top of the sheet; therefore it is not my name. Mr. *G. Paine.*

2077. Mr. *Cox.*] You are a wine merchant?—No; and that is not my signature.

Mr. *George Wells Snell*, recalled; further Examined.

2078. *Chairman.*] IS that your signature (*handing a petition to the Witness*)?—It is not mine; my address is Pinner's Hall; therefore I could not say Chancery-lane. Mr. *G. W. Snell.*

2079. Mr. *Cox.*] That is not your name?—Certainly not; but I did sign the petition.

2080. That is not your signature?—No, it is not.

2081. Sir *FitzRoy Kelly.*] Did you look sufficiently well at it to be able to say whose signature it was; if not, look at it again?—I know a Mr. Snell in Chancery-lane; there is a Mr. Snell in Chancery-lane, a short-hand writer. I can swear that it is not mine.

2082. Do you know Mr. Mitchell's handwriting?—Yes.

2083. In your judgment, is it in the handwriting of Mr. Mitchell?—I should say not, from what I have seen of Mr. Mitchell's handwriting. It is certainly not my own.

2084. *Chairman.*] Have you any other question to ask, Mr. Mitchell?—(*Mitchell.*) No, I have not.

2085. *Chairman.*] Have you any more witnesses?—(*Mitchell.*) I do not think I have any more.

2086. *Chairman.*] Have you any further remarks to make?—(*Mitchell.*) I should like to ask Mr. Strutt a question. The Committee desired to have all the information they could get, and that is my simple objec; I should wish to put a very simple question to Mr. Strutt.

2087. Mr. *Cox.*] Have you any further witnesses you wish to call before the Committee?—(*Mitchell.*) No.

2088. *Chairman.*] Or any further remarks to make?—(*Mitchell.*) No, I have not.

Mr. *Westley Richards*, called in; and Examined.

2089. *Chairman.*] AT the last meeting of the Committee you said you wished to make an explanation regarding the insertion of your name in the list of agents for getting up the petition for Azeem Jah?—Yes. Mr. *W. Richards.*

2090. It was thought right that Mr. Strutt should be present when you made that statement. We are now ready to hear any statement you may have to make, or any correction of the evidence?—I wish to deny that I had anything to do with getting up the petition; I never heard about it; I never heard that there was such a petition. At page 24, in the list of agents, you will see against my name, No. 16, that it is there stated, "This gentleman undertook to get up a Birmingham petition, signed by the mayor, magistrates, and others, to the number of 1,200 and upwards, but employed a friend, and his friend employed agents, for which Mr. Dawson paid. Mr. Richards did not charge anything for his expense."

2091. Sir *FitzRoy Kelly.*] What is the remark or statement you have to make?

Mr. *W. Richards.* —Simply that I deny having anything to do with it. My name is here used without my authority. I never heard of the petition until I saw it here.

26 May 1865. 2092. Mr. *Cox.*] Nobody ever spoke to you about it?—Never, until Lord Naas called my attention to it.

2093. Sir *FitzRoy Kelly.*] (To Mr. *Strutt.*) Have you before you the paper handed in, which is page 24 of the Minutes of Evidence?—Yes.

2094. And this statement that Mr. Westley Richards undertook, and so forth: have you that before you?—Yes.

2095. You have heard Mr. Westley Richards' statement that he knew nothing about it, and that his name is here without his authority: have you any remark to make, or explanation to offer?—The petitions Nos. 16 and 17 were got up by Mr. Dawson, the agent for the Prince; and I know nothing about the way in which these petitions were got up.

2096. Then in making the statement which you have here introduced into this paper, did you act altogether on the information of Mr. Dawson, or was any part of it within your own knowledge?—When the list was made up Mr. Dawson was asked for the name of the agents whom he employed.

2097. Asked by whom?—Asked by me; and Mr. Dawson, in answering my question, gave me the names, as I believe, of Westley Richards, Esq., as to the Birmingham petition; Captain Cator, R.A., Joseph Bolland, Esq., Lieutenant, R.Y.M., and Richard Eydon Garrett, Esq., Solicitor, all of Hull, Yorkshire. Those were the names which he gave as having been employed in getting up the petitions.

2098. You had not yourself any communication with Mr. Westley Richards, or any agent of his, or anyone purporting to be his agent, or any one of the persons you have mentioned?—No, I do not know Mr. Westley Richards; I never saw him before.

2099. You acted entirely on the information of Mr. Dawson?—Yes.

2100. Had you, at any time, in your communication with Mr. Dawson in relation to the Birmingham petition, or this Mr. Westley Richards, any paper delivered to you with regard to that part of the business?—This may give some information on the subject. During the time the petition was going on, a letter was written to Mr. Dawson by Mr. Richards.

2101. Did Mr. Dawson put that letter into your hands?—Mr. Dawson asked me in what way this gentleman was to proceed.

2102. And you have kept that letter ever since?—Yes.

2103. That letter was delivered to you by Mr. Dawson as a letter from Mr. Westley Richards to him?—Yes; this letter contains some private matter as well as matter connected with the petitions. I have no objection to put the letter in, but I object to put it on the Minutes.

2104. The private part of the letter?—The private part of the letter.

2105. Is the part which you consider to be private marked with a blue cross?—Yes, that does not appertain at all to the petitions; but I consider, to a certain extent, that is a confidential letter put into my hands. I wish to give every information to the Committee, therefore I produce it.

2106. With the exception of one sentence, which appears to be about five lines, marked with a blue cross, have you any objection to the rest of the letter being read by the Committee, and put on the Minutes?—I have no objection to the Committee reading the letter, but I object to its going on the Minutes.

2107. Mr. *Cox.*] Would you object to any part of it?—Yes; I got into difficulty in consequence of my giving you the names of the agents on a former occasion. Every agent is down upon me. The Committee can read the letter if they please.

2108. Sir *FitzRoy Kelly.*] You having handed it in, and said that you had no objection to its being read by the Committee, I presume that you have no objection to its being read by Mr. Richards?—I wish you to read it; all I object to is its going on the Minutes. It is a public document for the Committee, with that exception.

2109. You say that you have noobjection to the Chairman and the Members of the Committee reading it?—By no means.

[The Room was ordered to be cleared.

Parties were again called in.

Mr. *Westley Richards,* again called in; and Examined.

2110. Sir *FitzRoy Kelly.*] YOU have said, in reference to this statement, you really know nothing about it; that you employed no agents; and that you have not acted yourself in the matter; just be good enough to look at the signature of that letter; look at it carefully?—It is not mine.

2111. Look at the handwriting; there is something marked with a blue cross; pass that by, and read the letter to yourself?—I have neither seen nor heard of the letter before; I know nothing about it.

2112. Is that your signature?—No.

2113. Read the letter to yourself, passing over the part marked with a blue cross, and then look at the signature, and then I will put a question to you?—I have read the letter.

2114. Is the signature to the letter, or the body of the letter, or any part, in your handwriting?—None of it.

2115. Do you know at all the character of the handwriting?—No; I do not know the handwriting.

2116. Have you any partner, or is there any member of your family of the same name as yourself associated with you in any way?—No; my father's name is William Westley Richards; my half brother's name is Charles Richards.

2117. What is this?—"W. Richards."

2118. What do you understand that signature to be?—"W. F. Richards," I think it is.

2119. Is that your father's handwriting?—No, not like it.

2120. Is there any resemblance?—It is more like my brother's handwriting, but the signature is not his; his name is Charles, only.

2121. You have no idea whose handwriting it is?—I have never seen the handwriting before; the only idea I have—

2122. Do not make a guess about it from circumstances, but look at the character of the handwriting?—I do not know the character of the handwriting.

2123. You know nothing about it?—No.

2124. Is there any other person of the name of Richards at Birmingham?—There is "Theophilus Richards & Company, merchants." One of the firm is named "W. R."

2125. What are they?—I think Italian merchants.

2126. Mr. *Owen Stanley.*] Take that petition in your hand, and see whence it purports to come, and whether there is any signature that is yours, or purports to be yours?—"Westley Richards & Son," I see here; that has been signed by my half brother, but I never heard of it before.

2127. Mr. *Cox.*] That is a genuine signature?—That is a genuine signature.

2128. Mr. *Owen Stanley.*] That purports to be a petition from Birmingham?—Yes, but that has been done without my knowledge.

2129. *Chairman.*] Have you anything further to say?—No; I only wished to contradict this statement.

2130. Mr. *Cox.*] Do you know a gentleman of the name of Dawson?—No, I never heard of him before.

2131. And you know nothing whatever of the circumstances attending the letter?—No, I never heard that the petition was pending.

2132. Sir *James Fergusson.*] (To Mr. *Strutt.*) I understood you, in your evidence to-day, not to disclaim having employed all the agents whose names appear on that list formerly furnished by you?—Except two; one for Birmingham and one for Hull.

2133. All the others?—All the others, I admit; I take upon myself all responsibility.

2134. You will recollect, and see, on reference to your evidence, pages 15 and 16, that you were only asked to produce the names of the agents whom you yourself had employed?—Yes, but I was so anxious to give a full list of the names of all parties that had been connected with these petitions, that I was induced to put these two in of Hull and Birmingham. Mr. Dawson was the gentleman sent over from India by the Prince, from whom I received all my instructions,

Mr. *W. Richards.*

26 May 1865.

instructions, and acted under. Therefore I was anxious to let the Committee know that he was engaged as well as myself in getting up some of these petitions.

2135. Mr. *Cox.*] But, Mr. Strutt, you delivered these petitions to Mr. Mitchell for signature?—Yes.

2136. In blank, there being no signature to them?—No, I did not do so; some of the petitions Mr. Mitchell engrossed himself; most of the petitions Mr. Mitchell engrossed himself.

[The Room was ordered to be cleared.

Parties were again called in.

[*The following letter was ordered to be entered on the Minutes:*]

"My dear Dawson, "Birmingham, 27 February 1865.

"I have duly received yours of the 25th, with cheque for 10*l.* * * * have told my friend when you require the petitions. He has only got a few over 500 signatures, but is getting on faster now; I hope to-morrow or next day to have them lying for signature at one, if not both, the local newspaper offices. He tells me he finds it more troublesome and expensive than he at first anticipated, having to employ a man or two. It took so long to get the leading men to sign, that he has only lately been able to go among the second-rates. Will you please to let me know the latest day you can give him. Should you think it *infra dig.* if a man was stationed in the street to get signatures? It is commonly done here.

"Sincerely yours,
"*W. F. Richards.*"

Thomas Riley, called in; and Examined.

T. Riley.

2137. *Mitchell.*] WILL you look at the City petition; what is your name?—Thomas Riley.

2138. Where do you reside?—I reside at Hackney.

2139. Where is your City place of business?—No. 80, Lower Thames-street.

2140. Just look at that signature and tell the Committee whether it is in your handwriting?—Decidedly not; it is not like mine; it is no imitation of my handwriting at all; it is not a bit like it.

2141. Did you give anybody your consent to sign that petition?—No, no petition whatever. I do not know what the petition is, in fact.

2142. It is in favour of the alleged claim of the Prince Azeem Jah on the British Government?—No; I have never given any one permission, and it is not my partner's handwriting.

2143. Do you happen to know my handwriting; I have had some business transactions with you?—You have had some business transactions with me, but I could not say I know your handwriting.

2144. Do you remember printing a work for me, an Index to the Minutes of the House of Lords?—Yes.

2145. You had a large quantity of manuscript, you must have had; it was a heavy work?—Yes.

2146. Do you think that is at all like my handwriting?—I am sure I could not say at all. I could not say whether it is like or unlike your handwriting, although I have had letters from you. Mr. Couchman has generally attended to that matter; in fact, night and day I have had little or nothing to do with it. In fact, I was out of town at the time.

2147. Is the manuscript in your possession?—That I could not tell.

2148. If it is, could it be produced?—Yes, if you have not had it back.

2149. I have never had it back; I had it back for correction and returned it to you?—Yes, and very frequently it is not returned; I do not know whether you did return it, but if you did return it, we have it.

REPORT

FROM THE

SELECT COMMITTEE

ON THE

REFORM CLUB
PALL MALL

VALUATION OF LANDS AND HERITAGES (SCOTLAND);

TOGETHER WITH THE

PROCEEDINGS OF THE COMMITTEE,

MINUTES OF EVIDENCE,

AND APPENDIX.

Ordered, by The House of Commons, *to be Printed,*
22 *May* 1865.

Veneris, 24° *die Februarii*, 1865.

Ordered, That a Select Committee be appointed to inquire into the present system of Valuation of Lands and Heritages in Scotland for the imposition of Local Rates, and to report their opinion whether any, and if any, what Alterations may with advantage be made therein; and, in particular, whether it would be advisable, on the one hand, to provide that Poor's Rates, now leviable on a Net Valuation, should henceforth be leviable on the Gross Rental, or, on the other hand, whether all Local Rates should, like the Poor's Rates, be leviable on the Net Rental, and one uniform system of ascertaining the same established.

Mercurii, 8° *die Martii*, 1865.

Committee nominated of—

Mr. Dunlop.
Mr. Baxter.
Mr. Blackburn.
Mr. Edward Pleydell Bouverie.
Lord George Cavendish.
Sir Edward Colebrooke.
Major Cumming Bruce.
Mr. Dalglish.
Colonel Douglas Pennant.
Sir William Dunbar.
Sir James Fergusson.
Mr. William Leslie.
Mr. Mackie.
Sir Graham Montgomery.
Mr. Smollett.

Ordered, That the Committee have power to send for Persons, Papers, and Records.

Ordered, That Five be the Quorum of the Committee.

Martis, 21° *die Martii*, 1865.

Ordered, That Sir Edward Colebrooke be discharged from further attendance on the Committee, and that Sir John Ogilvy be added thereto.

Mercurii, 3° *die Maii*, 1865.

Ordered, That Mr. Adam be added to the Committee.

Lunæ, 22° *die Maii*, 1865.

Ordered, That the Committee have Power to Report their Observations, together with the Minutes of Evidence taken before them, to The House.

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REPORT.

THE SELECT COMMITTEE appointed to inquire into the present system of VALUATION of LANDS and HERITAGES in SCOTLAND for the Imposition of LOCAL RATES, and to Report their opinion whether any, and, if any, what Alterations may with advantage be made therein; and, in particular, whether it would be advisable, on the one hand, to provide that Poor's Rates, now Leviable on a Nett Valuation, should henceforth be Leviable on the Gross Rental, or, on the other hand, whether all Local Rates should, like the Poor's Rates, be Leviable on the Nett Rental, and one uniform system of ascertaining the same established;——HAVE considered the Matters to them referred, and have agreed to the following REPORT:—

IN entering upon the matters referred to them, Your Committee deemed it proper to make some inquiry into the General Valuation, for the purpose of taxation, of Lands and Heritages in Scotland, which preceded the subsisting system established by the Act of 1854.

That prior valuation was made under authority of an Act of the Convention of Estates in 1643, and it was, after the Restoration, ratified by an Act of Parliament of Charles the Second. The whole of the heritable or real property of the kingdom, including teinds (tithes) as well as rent, was thereby directed to be valued,—the "heritors, life-renters, titulars and others," appointed for the purpose of framing this "tax rule," being empowered to ascertain "the "just and true worth of every person or persons, their present year's rent of "this crop, in the year 1643, to landward, as well of lands and teinds, as "of any other thing whereby yearly profit and commodity ariseth."

With reference to the principle on which the valuation was to be made, the following direction was contained in the Act, viz.; "deducting what is paid "forth thereof to ministers and schoolmasters, superiors, tacksmen, life-renters "and colleges, which deduction, as to life-renters, tacksmen, and superiors, "shall be charged upon them respectively." The owner was thus to be charged only on the rental that came to himself, after deducting the permanent burdens then known, namely, minister's stipend and schoolmaster's salary, while the portion of the rent going to life-renters, tacksmen (*i. e.*, intermediate tenants of lands between owner and cultivator, and the holders of leases of teinds from the titulars) and superiors, was to be charged against these parties respectively.

No provision was made for future re-valuations; and the "valued rent" (as it has ever since been called) of each property, then fixed, has remained the "valued rent" of that same property to this day, and is, even now, the rule of assessment for certain rates still levied. If properties were sold, the "valued rent" might be divided, and proportions allocated on the separate parts, but the cumulo amount at which the whole estate was originally valued remained unchanged.

The consequence of this was that as some properties increased much more in value than others, by improvements or from situation, while the valuation by which rates were imposed remained unaltered, the burden became in many cases unequal and unjust, while all newly-created property, as houses, mills, manufactories, &c., escaped taxation altogether, as that was imposed according

to the "valued rent," which included no property that had not been in existence and valued in 1643. The injustice thence arising became so great, in the course of time, in parishes where a large extent of house property had come into existence, that a practice gradually crept in of imposing the poor's rates, and occasionally other parochial rates, according to the real rent, as it was termed, or the true actual rent or value of the property, at the time of assessment, instead of the "valued rent," which had been the rent at a date long antecedent; and this practice, when challenged, the Court held to be within the discretionary power of the parochial authorities, as to any rate which was not expressly directed by statute to be laid on according to the "valued rent," so that they might in such case impose it according to the real rent instead of the "valued rent," where circumstances warranted that course.

In cases of this kind, the real rent was ascertained, for the occasion, by the parochial authorities themselves, and they were in use, in making up their assessment roll, to allow deductions for repairs and maintenance. The power of doing so, in reference to poor's rates, without any special statutory authority, was early recognised by the Court of Session, who, towards the latter end of last century, sanctioned a deduction on the valuation of house property to the extent of 25 per cent.

This power was further, in 1845, not only authorised, but the exercise of it made imperative, by 8 & 9 Vict. c. 83, which (s. 37) provides that "in "estimating the annual value of lands and heritages" for the purposes of the Act, deduction shall be made "of the probable annual average cost of the repairs, "insurance, and other expenses, if any, necessary to maintain such lands and "heritages in their actual state, and all rates, taxes, and public charges payable "in respect of the same."

In like manner the prison rate, which is a county rate, (imposed by the 2d & 3d Vict. c. 42), was authorised, in so far as leviable from property not included under the "valued rent," valuation, (comprehending of course all the house, manufacturing, and railway property of the county), to be imposed only under similar deductions, the amount of which was ascertained and fixed by the Commissioners of Supply, or a committee of their number.

The present Valuation Act of 1854, (17 & 18 Vict. c. 91), made no change in the law as to the power or obligation of allowing such deductions, but merely made provision for ascertaining, in a uniform way, the gross rental, reserving to the several assessing bodies to impose their respective rates according to law, making such deductions, in order to arrive at the rateable value, as the law permitted or required.

Accordingly, in imposing poor's rates, such deductions are still made by the parochial Boards, each in their own parish, they taking the valuation in the valuation roll as the basis from which, by such deductions, to frame the rateable value for the parish. The prison rate also continued, after the passing of the Valuation Act, to be imposed, subject to the deductions provided by the Prison Act, until the year 1860, when a new Prison Act was passed, (20 & 21 Vict. c. 72), which has been held, though it is doubted if it was so intended, to do away with the practice of allowing such deductions in regard to that rate.

In regard to another county rate, the rogue money or police rate, the Commissioners of Supply were authorised, if they saw cause, to assess it in the same way as the prison rate, but, since 1860, deductions, of course, have also ceased to be allowed as to it. The other county rates were, prior to the present Valuation Act, all assessed on the old "valued rent," thereby exempting altogether all house, manufacturing, and railway property; but since then these rates have been imposed according to the valuation roll, and so have been extended to that description of property, as entered thereon, and without the allowance of any deductions for repairs or taxes.

In the course of carrying through Parliament various local Bills for the maintenance of roads, opposition was made by Railway Companies to the imposing of the new rates under these Bills, on their railways, upon the gross rental as appearing on the valuation roll, and these Committees having felt difficulties as to sanctioning a valuation different from that of the General Valuation Act, though believing that it would have been just, one of them deemed it right

to

to make a special Report to the House on the subject, and mainly in consequence of that Report, this Committee has been appointed to consider generally the system of valuation in Scotland, and to report their opinion "whether any, and "if any, what alterations may, with advantage, be made therein; and, in "particular, whether it would be advisable, on the one hand, to provide that "poor's rates, now leviable on a nett valuation, should henceforth be leviable "on the gross rental, or, on the other hand, whether all local rates should, like "the poor's rates, be leviable on the nett rental, and one uniform system of "ascertaining the same established."

Your Committee have accordingly examined many witnesses, and have fully considered the subject; and they have come to the conclusion that the poor's rates on the one hand, and the other local rates on the other, ought not to be assessed on two different valuations of rental, the one the gross and the other the nett, but that they should alike be assessed on one and the same valuation; and they are further of opinion that the just principle for estimating the rent or yearly value of lands and heritages, for the purpose of local taxation, is that provided in Scotland, (in accordance with the principle adopted for such rating in England and in Ireland), for the poor's rate, by the Act 8 & 9 Vict., which enacts "that the rent at which one year with another such lands "and heritages might in their actual state be reasonably expected to let from "year to year, under deduction of the probable annual average cost of the "repairs, insurance, and other expenses (if any) necessary to maintain such "lands and heritages in their actual state, and all rates, taxes, and public "charges payable in respect of the same."

It is, however, objected that, admitting this rule to be just in principle, its application is attended with so many difficulties, and would involve so much labour and expense, and create so much discontent, as to be practically inadmissible.

Your Committee think that these alleged difficulties ought not to stand in the way of the adoption of a rule of valuation so just in itself.

In the first place, in so far as regards the taxes and public burdens, the assessor can as easily ascertain the actual amount of these as he does the particulars which are essential, at present, for his making up the gross valuations.

In the second place, the ascertainment of the cost of repairs and maintenance, as regards railways, canals, and the works falling to be valued by the railway assessor, can, with scarcely any appreciable increase of labour, be accurately ascertained by him, when estimating the gross value of the heritable subject to be entered on the roll.

In the third place, the difficulty being thus restricted to the deduction for repairs and maintenance only, and that solely as regards the property not falling within the scope of the railway assessor's valuation, the amount of this is required, at present, by law to be ascertained, and is actually ascertained, with reference to the levying of the poor's rates. It is true that this is in general loosely done, and that if effected, as it ought to be, by the county or burgh assessor for his whole bounds, the labour, being no longer subdivided as at present, would be much heavier, and for the first year or two would require an increased staff, and consequently increased expense. After, however, this was once accomplished, the yearly labour to correct the returns and make necessary alterations, from change of circumstances, would be comparatively small.

In the fourth place, even this labour might be spared by adopting the practice, so universal in England, and which exists also in many parishes in Scotland now, for poor's rates, of fixing on certain rates of per-centage for different classes of property, and so attaining a reasonable approximation to the actual cost of repairs, which, if not absolutely accurate, in regard to each particular subject or tenement, would be at least much nearer a just valuation than the gross valuation of all properties equally, without any regard whatever to the greatly varying cost of repairs and maintenance in properties of different descriptions.

Your Committee are, on the whole, inclined to think that the most advisable scheme would be to allow the Commissioners of Supply for the county, and the magistrates and council for the burgh, to fix some per-centage as an average cost of repairs and maintenance for each of the various classes into which they might divide the lands and heritages, subject to certain limits to be prescribed in the Act of Parliament by which a new mode of valuation might be authorised.

To your Committee it would seem that these limits might reasonably be fixed somewhat as follows, viz.; that while not restricting the Commissioners of Supply or magistrates and council in regard to the number of classes into which they might subdivide properties, with a specified average per-centage for repairs and maintenance, to be deducted in each subdivision, they should not have power to sanction deductions to a greater amount than 8 per cent. from the gross rental or value in the case of land without houses; 10 per cent. in that of mines and quarries; 15 per cent. in that of land with houses; 20 per cent. on houses and buildings other than works and manufactories; and 30 per cent. on mills and works not placed under the valuation of the railway assessor, allowing, however, a subdivision in each of these classes if thought right, but never exceeding in any such subdivision, the fixed maximum applicable to the whole class. These rates being so fixed, it would be the duty of the assessor to calculate the amount according to the division in which he ranged the property, and having deducted from his gross valuation, first the taxes and burdens, as actually ascertained, and then the per-centage thus allowed for the cost of repairs and maintenance, he would insert the residue in a separate column as the nett value, according to which the several assessing bodies would impose the rates, they simply taking the nett value as entered on the Valuation Roll, and having no duty to perform in the ascertainment of it.

Besides the objection to the plan of taking the nett value as the rule of assessment, founded on the difficulty of ascertainment, there is another to which the Committee have given attention.

Various rates in towns, authorised by Local Acts, such as water rates, &c., are subjected to the restriction of a maximum limit of so much per pound on the rent; that rent having been, at the time of the passing of the Acts, estimated with reference to the gross rental. Large sums of money have been borrowed on the faith of these rates, while, in several instances, the proceeds of the rate scarcely provides sufficient for the expenses of the trust or work, and if the valuation were changed from a gross to a nett rental, the diminished proceeds would be inadequate to the liquidation of the debt, or, even in some cases, to the maintenance of the works.

It is quite obvious that the Companies and Trusts whose rates are thus limited cannot, without injustice, be subjected to the loss of revenue which, without some counteracting provision, would be consequent on the proposed change of valuation.

Some similar loss was anticipated as likely to arise in particular cases from the changes introduced by the subsisting Valuation Act, and, in order to obviate the risk, a power was given, by that Act, to the sheriff to authorise an equivalent rate.

This provision, however, is not deemed satisfactory by the parties interested, and it has also been represented that other evils will result from the change, in reference to those on whom these rates fall, which, as it appears to your Committee, another arrangement might avoid, while also affording the security against the loss of revenue which these parties dread.

These rates are leviable from occupiers only; and it is further argued that if the occupiers' rates, as well as those on proprietors, were calculated according to the nett value, the incidence would be unjustly altered, which would not be the case with reference to the rates on owners. The only fair rule for taxing an owner, in respect of his property, is the amount which he draws from it; while as to the occupier, the fair measure of the taxation on him, looking to himself and not the property, is what he himself pays, not how much of that may pass into his landlord's pocket, after deducting what he may have to pay for burdens

burdens and repairs. The adoption in Scotland of the rent of premises occupied by a party as the rule of assessment, so far as regards the poor rates, is expressly a substitute for the old mode of assessing according to means and substance, and has been taken as a fair measure of his wealth or ability to pay; and all other rates on occupiers in Scotland are based on the same principle. In that view, the measure of this wealth or ability, clearly is the amount *paid* by the occupier, and not that *received* by the owner; and a change from the gross to the nett rent, as to these rates on occupiers, would increase the burden on those whose ability to pay is least, and diminish it to those whose ability is greatest. Thus, the deduction for repairs on shops and warehouses is much less than that on dwelling-houses, so that while the occupiers of the former would have their rates lowered in a comparatively small degree, those of the latter would be greatly relieved, though the latter are unquestionably those who are best able to bear the burden, and on whom it falls most equitably. So, also, in the case of the inferior and the better class of dwelling-houses as compared with each other.

Your Committee would therefore suggest, as one mode of meeting both these objections, that the nett rental should only be taken as the valuation for rates on owners, and that for the rates on occupiers, or for the cumulo share of any rate falling on the occupiers, these should still be assessed and levied according to the gross valuation, being the amount which the occupiers pay. The difficulty under consideration, however, your Committee think may be also met, if the provisions contained in the Valuation Act, to which reference has just been made, were adopted with proper modifications, by which a judicial authority might, on application to him, increase the maximum limit on which the rate in these towns may be raised.

Several suggestions in matters of detail have been brought before your Committee, on which they beg to submit their opinion to the House.

Teinds, so far as constituting ministers' stipend, are at present deducted from the gross rent as regards poor rates, where alone deductions of burdens are allowed; but in so far as payable to titulars, they are not deducted. The amount, however, is sometimes very large; and where, in consequence of the original teind valuation having been lost, or having been held invalid from defect in form, a new valuation has been made very recently, it amounts to one-fifth of the rental, which fifth is payable to the titular by the owner of the lands. Although, however, the owner thus draws only four-fifths of the actual rent of the lands, his rental is estimated and his rates are imposed at the full amount.

In like manner large sums are paid yearly by owners, as feu duties, to their superiors. Under the Act of 1643, deduction of these were allowed under the valuation then made, and your Committee cannot discover any principle on which deduction should not be allowed now.

It does not appear to them that the reference to them properly raises the question whether teinds and feu duties should be included in the lands and heritages to be valued, as they were in 1643; but in considering the deductions proper to be made from the lands and heritages falling under the existing Valuation Act, to which question the reference does extend, they are of opinion that both teinds (whether payable to the minister or to the titular) and feu duties should, as to all rates, be deducted.

Another burden as to which it is now doubtful if deduction can be claimed, should also, in their opinion, be deducted, namely, the cost of rebuilding and repairing parish churches and manses, spreading, however, the amount over all the years over which the burden may be extended under the Act 25 & 26 Vict. c. 58.

Some amendments might, the Committee think, be made with advantage in regard to one or two matters connected with the valuation of railways, canals, &c.

Disputes occasionally arise between the railway assessor and the county or burgh assessor, as to what portion of the property of the company falls within the province of each respectively, owing to the Valuation Act not containing any definition of the term "Undertaking," to the property constituting which the railway assessor is restricted. This defect ought to be supplied.

The limit of the value to be put on stations, to 3*l.* per cent. on the cost, is complained of on the part of the burghs and parishes in which these are situated, it being contended that the actual value, viewed with reference to the other property in the locality, should be taken. Your Committee can see no sufficient reason, particularly if, in other respects, railways shall be placed on a more equitable footing, for maintaining this limitation.

In the case of a branch line (notwithstanding it be part of the undertaking of the parent Company), where the receipts arising from the traffic do not go into the general funds of the Company, but are allocated to a special body of shareholders, that branch line should be separately valued from the main line.

For more accurately ascertaining the value of the Scotch portion of a railway which extends partly into England, it would seem proper to empower the assessor to demand from the Company whatever information, regarding the portion in England, might seem to him necessary, in order correctly to estimate the value of the whole line, and assign the proper proportion of that to the line so far as in Scotland.

The assessor should also have the power of assigning separately its proportionate value to that part of the line included within the bounds of the "populous places" in which advantage may have been taken of the General Police Act.

Your Committee think that the assessor of railways should be bound, when required by the Commissioners of Supply of the county, or the magistrates of the burgh, to give the particulars of his valuation, and to explain the manner in which he arrives at it.

Under the present Valuation Act, works belonging to public Trusts, which, if belonging to a Company, might fall under the railway assessor's valuation, as, for instance, the Clyde Navigation, are excluded from it. This exclusion ought not to be allowed to continue.

Your Committee also think that it would be of advantage if all works which include fixed machinery, falling as such to be valued, might be placed under the railway assessor, who must always be a scientific man, and not left to be valued by the local assessors, who very rarely indeed will be so. One effect of this, besides securing a more accurate valuation, would be to admit of the ascertainment of the actual cost for repairs and maintenance, if the preceding recommendations of the Committee should be adopted.

In the valuing of lands, questions have arisen, with reference to land let at a certain stipulated rent to a tenant, who either sublets it at an increased rent, or, at his own expense and for his own accommodation, erects buildings on it, and thereby increases its value, whether the valuation should be taken at the stipulated rent, or at the increased value, and different views seem to have been taken as to the true legal construction, in this respect, of the existing Act. Your Committee think that all doubt on this point should be removed, and, as they have already suggested, that the full actual nett value at the time of valuation should, in all cases, be entered on the roll, the mid-tenant, in the case of a subset, or the party erecting the buildings but not paying rent for them, being entered and dealt with as the owner during the lease, *quoad* the difference between the value and the stipulated rent, just as is provided by the present Act for the case of leases of longer duration than 31 years.

At present a great difference exists as to the right of appeal in those cases in which the Commissioners of Supply, or Magistrates of Burghs, have selected, as their assessor, the Government Surveyor, from those in which they have chosen an assessor of their own, an appeal to two Judges in Exchequer being allowed in the former, and excluded in the latter case. Your Committee see no reason for this distinction, and they think that it would be a great improvement if an appeal were allowed in both cases.

An awkward difference at present exists between the date of lodging appeals against the railway assessor's valuation and those against the valuation of the burgh and county assessors, the former being the 8th September and the latter the 30th November. The 8th of September would seem quite suitable for both.

It would also, they think, be an advantage if the Judges were required, or at all events allowed, to insert in their judgments the grounds of their decision, and any findings in law which might appear to them calculated to regulate the conduct of Assessors and of Commissioners of Supply and Magistrates, for the future.

They also consider that a power on the part of the two Judges to report to one of the inner divisions of the Court any case coming before them would greatly facilitate the establishment of settled principles for regulating the practice in valuations.

It has been strongly urged on the Committee that it would be an improvement on the existing system, if it were made imperative on the Commissioners of Supply and Magistrates of Burghs to select in all cases, for their assessors, the Government Surveyors. But your Committee, while fully satisfied of the advantages that have arisen from such a selection in the cases in which it has been made, are not prepared to recommend that these bodies should be deprived of all option in the matter, and that the choice of the Government Surveyor should, in all cases, be made compulsory on them.

In conclusion, the Committee may point out that a general impression seems to prevail, that it is still competent for the parochial authorities to exercise an optional discretion, whether they will assess for the building of churches and manses according to the "valued rent," or according to the valuation roll. The Committee think that this is an erroneous impression, and that the general rule laid down by the Valuation Act was, that in regard to whatever assessments it was, prior to the passing of the Valuation Act, *competent* to have assessed according to the real rent, it is now *imperative* to do so, subject to the single exception of repairs on an existing parish church the sittings in which have already been allocated according to the valued rent, in which case the assessment for the repair of that fabric, so divided, must be imposed according to the same rule; and Your Committee consider that in that special case the exception should be adhered to.

In three other cases rates are expressly directed by Statute to be imposed according to the valued rent, and as to which no option, is by these Statutes, allowed; that is to say, the land tax, schoolmasters' salary and schools, and, in some cases, road-money, under certain local Statutes; and it has been suggested that these ought all to be placed on the real rent according to the valuation roll. There are, however, circumstances which seem sufficient to exclude any attempt to make this change part of a measure for amending the valuation roll.

As to the land tax, it is redeemed on many properties, whilst on others it remains unredeemed, and any alteration now of the rule of incidence could scarcely be reconciled with justice.

As to road-money, again, it would scarcely be possible, in reference to a subject in regard to which the modes of assessment are so various and so diverse, to frame, in a mere Valuation Act, a new scheme of assessment which would suit all cases, and give general satisfaction, and besides, the subject is already before Parliament in a Bill now pending.

Then in regard to the assessment for schools and schoolmasters' salaries, there would be raised a great and important question, involved in that of the rule of rating, which could not well be discussed in a Valuation Bill, namely, that of the management of schools, now being investigated by a Royal Commission. Your Committee, therefore, do not deem it advisable to give any recommendation for including these matters in any measure for amending the existing system of valuation in Scotland.

Those changes which they have ventured to suggest would, they hope, if adopted, prove advantageous.

22 *May* 1865.

PROCEEDINGS OF THE COMMITTEE.

Mercurii, 15° *die Martii*, 1865.

MEMBERS PRESENT:

Mr. Dunlop.	Sir James Fergusson.
Sir Graham Montgomery.	Mr. Leslie.
Sir Edward Colebrooke.	Mr. Dalglish.
Mr. Smollett.	

Mr. DUNLOP was called to the Chair.

The Committee deliberated.

[Adjourned to Thursday, 23d March, at Twelve o'clock.

Jovis, 23° *die Martii*, 1865.

MEMBERS PRESENT:

Mr. DUNLOP in the Chair.

Sir John Ogilvy.	Colonel Douglas Pennant.
Mr. Blackburn.	Major Cumming Bruce.
Mr. Mackie.	Mr. E. P. Bouverie.
Mr. Leslie.	Sir Graham Montgomery.
Mr. Smollett.	Sir James Fergusson.

Mr. *John M. Duncan*, Mr. *John Dykes*, and Mr. *John Burnett*, were severally examined.

[Adjourned to Monday next, at Twelve o'clock.

Lunæ, 27° *die Martii*, 1865.

MEMBERS PRESENT:

Mr. DUNLOP in the Chair.

Mr. Leslie.	Sir Graham Montgomery.
Mr. Blackburn.	Mr. Dalglish.
Sir John Ogilvy.	Colonel Douglas Pennant.
Mr. Mackie.	Major Cumming Bruce.
Mr. Smollett.	

Mr. *Alexander Ramsay*, Mr. *James Russell*, Mr. *George Dods*, Mr. *William Bennet*, and Mr. *John Walker*, were severally examined.

[Adjourned to Thursday next, at Twelve o'clock.

Jovis, 30° *die Martii*, 1865.

MEMBERS PRESENT:

Mr. DUNLOP in the Chair.

Mr. Dalglish.	Lord G. Cavendish.
Mr. Leslie.	Major Cumming Bruce.
Mr. Mackie.	Mr. E. P. Bouverie.
Mr. Blackburn.	Sir James Fergusson.
Sir John Ogilvy.	Sir Graham Montgomery.
Mr. Smollett.	

Mr. *Wm. J. Menzies*, Mr. *W. Hay*, Mr. *James Dunlop Kirkwood*, Mr. *Robert Readman*, and Mr. *Archibald Patterson*, were severally examined.

[Adjourned to Monday, 3d April, at Twelve o'clock.

Lunæ, 3° *die Aprilis*, 1865.

MEMBERS PRESENT:

Mr. DUNLOP in the Chair.

Mr. Leslie.	Mr. Smollett.
Major Cumming Bruce.	Sir Graham Montgomery.
Mr. Blackburn.	Mr. Dalglish.
Sir John Ogilvy.	Sir James Fergusson.
Mr. Mackie.	

Mr. *Francis J. Cochran*, Mr. *Alexander Cameron*, Mr. *F. S. Allan*, and Mr. *James Allanson Picton*, were severally examined.

[Adjourned to Thursday, 27th April, at Twelve o'clock.

Jovis, 27° *die Aprilis*, 1865.

MEMBERS PRESENT:

Mr. DUNLOP in the Chair.

Sir John Ogilvy.	Mr. Baxter.
Sir Graham Montgomery.	Mr. Bouverie.
Mr. Mackie.	

Mr. *David Carnegie Alexander*, Mr. *William Brown*, Mr. *James Wilson*, and Mr. *Robert Paterson*, were severally examined.

[Adjourned to Monday, 1st May, at Twelve o'clock.

Lunæ, 1° *die Maii*, 1865.

MEMBERS PRESENT:

Mr. Dunlop.	Sir John Ogilvy.
Mr. Baxter.	Mr. Dalglish.

[Adjourned to Thursday next, at Twelve o'clock.

Jovis, 4° die Maii, 1865.

MEMBERS PRESENT:

Mr. DUNLOP in the Chair.

Sir John Ogilvy.	Sir James Fergusson.
Mr. Leslie.	Colonel Douglas Pennant.
Major Cumming Bruce.	Lord George Cavendish.
Mr. Adam.	Mr. Dalglish.
Mr. Mackie.	Mr. Baxter.
Mr. Smollett.	

Mr. *Robert Paterson* further examined.

Mr. *Wm. Duncan* and Mr. *George Reith* were severally examined.

[Adjourned to Monday next, at One o'clock.

Lunæ, 8° die Maii, 1865.

MEMBERS PRESENT:

Mr. DUNLOP in the Chair.

Colonel Douglas Pennant.	Major Cumming Bruce.
Sir John Ogilvy.	Mr. Dalglish.
Mr. Blackburn.	Sir James Fergusson.
Lord George Cavendish.	Mr. Smollett.
Mr. Leslie.	Mr. Adam.
Mr. Baxter.	Mr. Mackie.
Sir Graham Montgomery.	

The Chairman handed in a paper from Mr. *T. G. Murray.*

Ordered, That the same be printed in the Appendix.

Mr. *W. G. Lumley*, Mr. *Patrick Hunter Thoms*, Mr. *John Fimister*, and Mr. *James Donaldson*, were severally examined.

Mr. *George Dods* further examined.

Mr. *Hugh Bartholomew* examined.

[Adjourned to Thursday next, at One o'clock.

Jovis, 11° die Maii, 1865.

MEMBERS PRESENT:

Mr. DUNLOP in the Chair.

Mr. Mackie.	Lord George Cavendish.
Mr. Leslie	Mr. Dalglish.
Mr. Baxter.	Major Cumming Bruce.
Mr. Blackburn.	Mr. Smollett.
Sir John Ogilvy.	Sir James Fergusson.
Sir Graham Montgomery.	Mr. Bouverie.

The Committee deliberated.

[Adjourned to Monday, 22d, at Twelve o'clock.

Lunæ, 22° die Maii, 1865.

MEMBERS PRESENT:

Mr. DUNLOP in the Chair.

Sir John Ogilvy.	Major Cumming Bruce.
Mr. Blackburn.	Colonel Douglas Pennant.
Mr. Baxter.	Sir Graham Montgomery.
Mr. Mackie.	Sir James Fergusson.
Lord George Cavendish.	Mr. Adam.
Mr. Bouverie.	Mr. Dalglish.
Mr. Leslie.	Mr. Smollett.

The Committee deliberated.

Draft Report proposed by the Chairman, read 1°, as follows:

"THE SELECT COMMITTEE appointed to inquire into the present system of Valuation of Lands and Heritages in Scotland for the Imposition of Local Rates, and to Report their opinion whether any, and, if any, what Alterations may with advantage be made therein; and, in particular, whether it would be advisable, on the one hand, to provide that Poor's Rates, now Leviable on a Nett Valuation, should henceforth be Leviable on the Gross Rental, or, on the other hand, whether all Local Rates should, like the Poor's Rates, be Leviable on the Nett Rental, and one uniform system of ascertaining the same established;——Have considered the Matters to them referred, and have agreed to the following REPORT:—

"1. In entering upon the matters referred to them, your Committee deemed it proper to make some inquiry into the General Valuation, for the purpose of taxation, of Lands and Heritages in Scotland, which preceded the subsisting system established by the Act of 1854.

"2. That prior valuation was made under authority of an Act of the Convention of Estates in 1643, and it was, after the Restoration, ratified by an Act of Parliament of Charles the Second. The whole of the heritable or real property of the kingdom, including teinds (tithes) as well as rent, was thereby directed to be valued,—the 'heritors, life-renters, titulars, and others,' appointed for the purpose of framing this 'tax rule,' being empowered to ascertain 'the just and true worth of every person or persons, their present 'year's rent of this crop, in the year 1643, to landward, as well of lands and teinds, as of 'any other thing whereby yearly profit and commodity ariseth.'

"3. With reference to the principle on which the valuation was to be made, the following direction was contained in the Act, viz.; 'deducting what is paid forth thereof to ministers 'and schoolmasters, superiors, tacksmen, life-renters and colleges, which deduction, as to 'life-renters, tacksmen, and superiors, shall be charged upon them respectively.' The owner was thus to be charged only on the rental that came to himself, after deducting the permanent burdens then known, namely, minister's stipend and schoolmaster's salary, while the portion of the rent going to life-renters, tacksmen (*i. e.*, intermediate tenants of lands between owner and cultivator, and the holders of leases of teinds from the titulars) and superiors, was to be charged against these parties respectively.

"4. No provision was made for future re-valuations; and the 'valued rent' (as it has ever since been called) of each property, then fixed, has remained the 'valued rent' of that same property to this day, and is, even now, the rule of assessment for certain rates still levied. If properties were sold, the 'valued rent' might be divided, and proportions allocated on the separate parts, but the cumulo amount at which the whole estate was originally valued remained unchanged.

"5. The consequence of this was that as some properties increased much more in value than others, by improvements or from situation, while the valuation by which rates were imposed remained unaltered, the burden became in many cases unequal and unjust, while all newly-created property, as houses, mills, manufactories, &c., escaped taxation altogether, as that was imposed according to the 'valued rent,' which included no property that had not been in existence and valued in 1643. The injustice thence arising became so great, in the course of time, in parishes where a large extent of house property had come into existence, that a practice gradually crept in of imposing the poor's rates, and occasionally other parochial rates, according to the real rent, as it was termed, or the true actual rent or value of the property, at the time of assessment, instead of the 'valued rent,' which had been the rent at a date long antecedent; and this practice, when challenged, the Court held to be within the discretionary power of the parochial authorities, as to any rate which was not expressly directed by statute to be laid on according to the 'valued rent,' so that they might in such case impose it according to the real rent instead of the 'valued rent,' where circumstances warranted that course.

"6. In cases of this kind, the real rent was ascertained, for the occasion, by the parochial authorities themselves, and they were in use, in making up their assessment roll, to allow deductions for repairs and maintenance. The power of doing so, in reference to poor's rates, without any special statutory authority, was early recognised by the Court of Session, who, towards the latter end of last century, sanctioned a deduction on the valuation of house property to the extent of 25 per cent.

"7. This power was further, in 1845, not only authorised, but the exercise of it made imperative, by 8 & 9 Vict. c. 83, which (s. 37) provides that 'in estimating the annual value 'of lands and heritages' for the purposes of the Act, deduction shall be made 'of the 'probable annual average cost of the repairs, insurance, and other expenses, if any, necessary 'to maintain such lands and heritages in their actual state, and all rates, taxes, and public 'charges payable in respect of the same.'

"8. In like manner the prison rate, which is a county rate (imposed by the 2d & 3d Vict. c. 42), was authorised, in so far as leviable from property not included under the 'valued rent' valuation (comprehending of course all the house, manufacturing, and railway property of the county), to be imposed only under similar deductions, the amount of which was ascertained and fixed by the Commissioners of Supply, or a committee of their number.

"9. The present Valuation Act of 1854 (17 & 16 Vict. c. 91), made no change in the law as to the power or obligation of allowing such deductions, but merely made provision for ascertaining, in a uniform way, the gross rental, reserving to the several assessing bodies to impose their respective rates according to law, making such deductions, in order to arrive at the rateable value, as the law permitted or required.

"10. Accordingly, in imposing poor's rates, such deductions are still made by the parochial Boards, each in their own parish, they taking the valuation in the valuation roll as the basis from which, by such deductions, to frame the rateable value for the parish. The prison rate also continued, after the passing of the Valuation Act, to be imposed, subject to the deductions provided by the Prison Act, until the year 1860, when a new Prison Act was passed (20 & 21 Vict. c. 72), which has been held, though it is doubted if it was so intended, to do away with the practice of allowing such deductions in regard to that rate.

"11. In regard to another county rate, the rogue money or police rate, the Commissioners of Supply were authorised, if they saw cause, to assess it in the same way as the prison rate, but, since 1860, deductions, of course, have also ceased to be allowed as to it. The other county rates were, prior to the present Valuation Act, all assessed on the old 'valued rent,' thereby exempting altogether all house, manufacturing, and railway property; but since then these rates have been imposed according to the valuation roll, and so have been extended to that description of property, as entered thereon, and without the allowance of any deductions for repairs or taxes.

"12. In the course of carrying through Parliament various local Bills for the maintenance of roads, opposition was made by railway companies to the imposing of the new rates under these Bills, on their railways, upon the gross rental as appearing on the valuation roll, and these Committees having felt difficulties as to sanctioning a valuation different from that of the General Valuation Act, though believing that it would have been just, one of them deemed it right to make a special Report to the House on the subject, and mainly in consequence of that Report, this Committee has been appointed to consider generally the system of valuation in Scotland, and to report their opinion 'whether any, and, if any, what, 'alterations may, with advantage, be made therein; and, in particular, whether it would be 'advisable, on the one hand, to provide that poor's rates, now leviable on a nett valuation, 'should henceforth be leviable on the gross rental, or, on the other hand, whether all local 'rates should, like the poor's rates, be leviable on the nett rental, and one uniform system 'of ascertaining the same established.'

"13. Your Committee have accordingly examined many witnesses, and have fully considered the subject; and they have come to the conclusion that the poor's rates on the one hand, and the other local rates on the other, ought not to be assessed on two different valuations of rental, the one the gross and the other the nett, but that they should alike be assessed on one and the same valuation; and they are further of opinion that the just principle for estimating the rent or yearly value of lands and heritages, for the purpose of local taxation, is that provided in Scotland, (in accordance with the principle adopted for such rating in England and in Ireland), for the poor's rate, by the Act 8 & 9 Vict., of taking the actual rent, 'under deduction of the probable annual average cost of the repairs, insurance, and 'other expenses (if any) necessary to maintain such lands and heritages in their actual 'state, and all rates, taxes, and public charges payable in respect of the same.'

"14. It is, however, objected that, even assuming this rule to be just in principle, its application is attended with so many difficulties, and would involve so much labour and expense, and create so much discontent, as to be practically inadmissible.

"15. Your Committee think that these alleged difficulties are much exaggerated, and that they ought not to stand in the way of the adoption of a rule of valuation so just in itself.

16. In

" 16. In the first place, in so far as regards the taxes and public burdens, the assessor can as easily ascertain the actual amount of these as he does the particulars which are essential, at present, for his making up the gross valuations.

" 17. In the second place, the ascertainment of the cost of repairs and maintenance, as regards railways, canals, and the works falling to be valued by the railway assessor, can, with scarcely any appreciable increase of labour, be accurately ascertained by him, when estimating the gross value of the heritable subject to be entered on the roll.

" 18. In the third place, the difficulty being thus restricted to the deduction for repairs and maintenance only, and that solely as regards the property not falling within the scope of the railway assessor's valuation, the amount of this is required, at present, by law to be ascertained, and is actually ascertained, with reference to the levying of the poor's rates. It is true that this is in general loosely done, and that if effected, as it ought to be, by the county or burgh assessor for his whole bounds, the labour, being no longer subdivided as at present, would be much heavier, and for the first year or two would require an increased staff, and consequently increased expense. After, however, this was once accomplished, the yearly labour to correct the returns and make necessary alterations, from change of circumstances, would be comparatively small.

" 19. In the fourth place, even this labour might be spared by adopting the practice, so universal in England, and which exists also in many parishes in Scotland now, for poor's rates, of fixing on certain rates of per-centage for different classes of property, and so attaining a reasonable approximation to the actual cost of repairs, which, if not absolutely accurate, in regard to each particular subject or tenement, would be at least much nearer a just valuation than the gross valuation of all properties equally, without any regard whatever to the greatly varying cost of repairs and maintenance of properties of different descriptions.

" 20. Such a system also has, doubtless, the further advantage of avoiding, in a great measure, those complaints which might result from an impression that the cost on one man's house was estimated higher than that on his neighbour's, and your Committee are, on the whole, inclined to think that the most advisable scheme would be to allow the Commissioners of Supply for the county, and the magistrates and council for the burgh, to fix some per-centage as an average cost of repairs and maintenance for each of the various classes into which they might divide the lands and heritages, subject to certain limits to be prescribed in the Act of Parliament by which the improved mode of valuation might be authorised.

" 21. To your Committee it would seem that the limits might reasonably be fixed somewhat as follows, viz.; that while not restricting the Commissioners of Supply or magistrates and council in regard to the number of classes into which they might subdivide properties, with a specified average per-centage for repairs and maintenance, to be deducted in each subdivision, they should not have power to sanction deductions to a greater amount than 8 per cent. from the gross rental or value in the case of land without houses; 10 per cent. in that of mines and quarries; 15 per cent. in that of land with houses; 20 per cent. on houses and buildings other than works and manufactories; and 30 per cent. on mills and works not placed under the valuation of the railway assessor, allowing, however, a subdivision in each of these classes if thought right, but never exceeding in any such subdivision the fixed maximum applicable to the whole class. These rates being so fixed, it would be the duty of the assessor to calculate the amount according to the division in which he ranged the property, and having deducted from his gross valuation, first the taxes and burdens, as actually ascertained, and then the per-centage thus allowed for the cost of repairs and maintenance, he would insert the residue in a separate column in the nett value according to which the several assessing bodies would impose the rates, they simply taking the nett value as entered on the Valuation Roll, and having no duty to perform in the ascertainment of it.

" 22. Besides the objection to the plan of taking the nett value as the rule of assessment, founded on the difficulty of ascertainment, there is another to which the Committee attach much greater weight.

" 23. Various rates in towns, authorised by Local Acts, such as water rates, &c., are subjected to the restriction of a maximum limit of so much per pound on the rent; that rent having been, at the time of the passing of the Acts, estimated with reference to the gross rental. Large sums of money have been borrowed on the faith of these rates, while, in several instances, the proceeds of the rate scarcely provides sufficient for the expenses of the trust or work, and if the valuation were changed from a gross to a nett rental, the diminished proceeds would be inadequate to the liquidation of the debt, or, even in some cases, to the maintenance of the works.

" 24. It is quite obvious that the Companies and Trusts whose rates are thus limited cannot, without injustice, be subjected to the loss of revenue which, without some counteracting provision, would be consequent on the proposed change of valuation.

" 25. Some similar loss was anticipated as likely to arise in particular cases, from the changes introduced by the subsisting Valuation Act, and in order to obviate the risk a power was given by that Act to the sheriff to authorise an equivalent rate.

"26. This provision, however, is not deemed satisfactory by the parties interested, and it has also been represented that other evils will result from the change, in reference to those on whom these rates fall, which, as it appears to your Committee, another arrangement might avoid, while also affording the security against the loss of revenue which these parties dread.

"27. These rates are leviable from occupiers only; and it is further considered that if the occupiers' rates, as well as those on proprietors, were calculated according to the nett value, the incidence would be unjustly altered, which would not be the case with reference to the rates on owners. The only fair rule for taxing an owner, in respect of his property, is the amount which he draws from it; while as to the occupier, the fair measure of the taxation on him, looking to himself and not the property, is what he himself pays, not how much of that may pass into his landlord's pocket, after deducting what he may have to pay for burdens and repairs. The adoption in Scotland of the rent of premises occupied by a party as the rule of assessment, so far as regards the poor rates, is expressly a substitute for the old mode of assessing according to means and substance, and has been taken as a fair measure of his wealth or ability to pay; and all other rates on occupiers in Scotland are based on the same principle. In that view, the measure of this wealth or ability, clearly is the amount *paid* by the occupier, and not that *received* by the owner; and a change from the gross to the nett rent, as to these rates on occupiers, would increase the burden on those whose ability to pay is least, and diminish it to those whose ability is greatest. Thus, the deduction for repairs on shops and warehouses is much less than that on dwelling-houses, so that while the occupiers of the former would have their rates lowered in a comparatively small degree, those of the latter would be greatly relieved, though the latter are unquestionably those who are best able to bear the burden, and on whom it falls most equitably. So, also, in the case of the inferior and the better class of dwelling-houses as compared with each other.

"28. Your Committee would therefore suggest, as the best mode of meeting both these objections, that the nett rental should only be taken as the valuation for rates on owners, and that for the rates on occupiers, or for the cumulo share of any rate falling on the occupiers, these should still be assessed and levied according to the gross valuation, being the amount which the occupiers pay.

"29. Several suggestions in matters of detail have been brought before your Committee, on which they beg to submit their opinion to the House.

"30. Teinds, so far as constituting ministers' stipend, are at present deducted from the gross rent as regards poor rates, where alone deductions of burdens are allowed; but in so far as payable to titulars, they are not deducted. The amount, however, is sometimes very large; and where, in consequence of the original teind valuation having been lost or having been held invalid from defect in form, a new valuation has been made very recently, it amounts to one-fifth of the rental, which fifth is payable to the titular by the owner of the lands. Although, however, the owner thus draws only four-fifths of the actual rent of the lands, his rental is estimated and his rates are imposed at the full amount.

"31. In like manner large sums are paid yearly by owners, as feu duties, to their superiors. Under the Act of 1643, deduction of these were allowed under the valuation then made, and your Committee cannot discover any principle on which deduction should not be allowed now.

"32. It does not appear to them that the reference to them properly raises the question whether teinds and feu duties should be included in the lands and heritages to be valued, as they were in 1643; but in considering the deductions proper to be made from the lands and heritages falling under the existing Valuation Act, to which question the reference does extend, they are of opinion that both teinds (whether payable to the minister or to the titular) and feu duties should, as to all rates, be deducted.

"33. Another burden as to which it is now doubtful if deduction can be claimed, should also, in their opinion, be deducted, namely, the cost of rebuilding and repairing parish churches and manses, spreading, however, the amount over all the years over which the burden may be extended under the Act 25 & 26 Vict., c. 58.

"34. Some amendments might, the Committee think, be made with advantage in regard to one or two matters connected with the valuation of railways, canals, &c.

"35. Disputes occasionally arise between the railway assessor and the county or burgh assessor, as to what portion of the property of the Company falls within the province of each respectively, owing to the Valuation Act not containing any definition of the term 'Undertaking,' to the property constituting which the railway assessor is restricted. This defect ought to be supplied.

"36. The limit of the value to be put on stations, to 3 *l.* per cent. on the cost, is much complained of on the part of the burghs and parishes in which these are situated, it being contended that the actual value, viewed with reference to the other property in the locality, should be taken. Your Committee can see no sufficient reason, particularly if, in other respects, railways shall be placed on a more equitable footing, for maintaining this limitation.

"37. You

" 37. Your Committee would further suggest that the total value of the whole line should not be divided among the several parishes through which it passes, without any distinction between the main line and branch lines, allowing an equal share according to the mileage, whether that be of a branch or of the main line. They consider that the main lines and the branch lines should be separately valued, and the division of the distinct valuation made according to the mileage of each respectively.

" 38. For more accurately, also, ascertaining the value of the Scotch portion of a railway which extends partly into England, it would seem proper to empower the assessor to demand from the Company whatever information, regarding the portion in England, might seem to him necessary, in order correctly to estimate the value of the whole line, and assign the proper proportion of that to the line so far as in Scotland.

" 39. The assessor should also have the power of assigning separately its proportionate value to that part of the line included within the bounds of the 'populous places' in which advantage may have been taken of the General Police Act.

" 40. Under the present Valuation Act (doubtless through an oversight), works belonging to Public Trusts, which, if belonging to a Company, might fall under the railway assessor's valuation, as, for instance, the Clyde Navigation, are excluded from it. This exclusion ought not to be allowed to continue.

" 41. Your Committee also think that it would be of advantage if all works which include fixed machinery, falling as such to be valued, were placed under the railway assessor, who must always be a scientific man, and not left to be valued by the local assessors, who very rarely indeed will be so. One effect of this, besides securing a more accurate valuation, would be to admit of the ascertainment of the actual cost for repairs and maintenance, if the preceding recommendations of the Committee should be adopted.

" 42. In the valuing of lands, questions have arisen, with reference to land let at a certain stipulated rent to a tenant, who either sublets it at an increased rent, or, at his own expense and for his own accommodation, erects buildings on it, and thereby increases its value, whether the valuation should be taken at the stipulated rent, or at the increased value, and different views seem to have been taken as to the true legal construction, in this respect, of the existing Act. Your Committee think that all doubt on this point should be removed, and it appears to them that the full actual value at the time of valuation should, in such cases, be entered on the roll, the mid-tenant, in the case of a subset, or the party erecting the buildings but not paying rent for them, being entered and dealt with as the owner during the lease, *quoad* the difference between the value and the stipulated rent, just as is provided by the present Act for the case of leases of longer duration than 31 years.

" 43. At present a great difference exists as to the right of appeal in those cases in which the Commissioners of Supply, or Magistrates of Burghs, have selected, as their assessor, the Government Surveyor, from those in which they have chosen an assessor of their own, an appeal to two Judges in Exchequer being allowed in the former, and excluded in the latter case. Your Committee see no reason for this distinction, and they think that it would be a great improvement if an appeal were equally allowed in both cases.

" 44. It would also, they think, be an advantage if the Judges were required, or at all events allowed, to insert in their judgments the grounds of their decision, and any findings in law which might appear to them calculated to regulate the conduct of Assessors and of Commissioners of Supply and Magistrates, for the future.

" 45. They also consider that a power on the part of the two Judges to report to one of the inner divisions of the Court any case coming before them would greatly facilitate the establishment of settled principles for regulating the practice in valuations.

" 46. It has been strongly urged on the Committee that it would be an improvement on the existing system, if it were made imperative on the Commissioners of Supply and Magistrates of Burghs to select in all cases, for their assessors, the Government Surveyors. But Your Committee, while fully satisfied of the advantages that have arisen from such a selection in the cases in which it has been made, are not prepared to recommend that these bodies should be deprived of all option in the matter, and that the choice of the Government Surveyer should, in all cases, be made compulsory on them.

" 47. In conclusion, the Committee may point out that a general impression seems to prevail, that it is still competent for the parochial authorities to exercise an optional discretion, whether they will assess for the building of churches and manses according to the 'valued rent,' or according to the valuation roll. The Committee think that this is an erroneous impression, and that the general rule laid down by the Valuation Act was, that in regard to whatever assessments it was, prior to the passing of the Valuation Act, *competent* to have assessed according to the real rent, it is now *imperative* to do so, subject to the single exception of repairs on an existing parish church, the sittings in which have already been allocated according to the valued rent, in which case the assessment for the repair of that fabric, so divided, must be imposed according to the same rule; and Your Committee consider that in that special case the exception should be adhered to.

" 48. There are indeed certain rates expressly directed by statute to be imposed according to the valued rent, and as to which no option is by these statutes allowed; as, for instance,

the land tax, schoolmasters' salary and schools, and, in some cases, road money, under certain local statutes; and it has been suggested that these ought all to be placed on the real rent according to the valuation roll. However just this change might be in itself, there are circumstances which seem sufficient to exclude any attempt to make it, at least as part of a measure for amending the valuation roll.

"49. As to the land tax, it is redeemed on many properties, whilst on others it remains unredeemed, and any alteration now of the rule of incidence could scarcely be reconciled with justice.

"50. As to road-money, again, it would scarcely be possible, in reference to a subject in regard to which the modes of assessment are so various and so diverse, to frame, in a mere Valuation Act, a new scheme of assessment which would suit all cases, and give general satisfaction, and, besides, the subject is already before Parliament in a Bill now pending.

"51. Then, in regard to the assessment for schools and schoolmasters' salaries, there would be raised a great and important question, involved in that of the rule of rating, which could not well be discussed in a Valuation Bill, namely, that of the management of schools, now being investigated by a Royal Commission. Your Committee, therefore, do not deem it advisable to give any recommendation for including these matters in any measure for amending the existing system of valuation in Scotland.

"52. Those changes which they have ventured to suggest would, they hope, if adopted, prove advantageous."

Draft Report proposed by Mr. *Leslie*, read 1°, as follows:—

"1. That your Committee have examined witnesses from various localities, and having fully considered the evidence adduced before them, are of opinion that, although certain inequalities in the incidence of local assessments may, in particular cases, be held to exist, the system of rating at present in operation, under the Act 17 & 18 Vict., c. 9, appears to meet with very general approval in Scotland.

"2. That the whole question is involved in difficulty; and while some of the witnesses suggested a classification of various descriptions of property, with a view of establishing a fixed scale of deductions, the weight of evidence tends to the conclusion that any such arrangement, even if practicable (which many witnesses seemed to doubt), would fail to produce a result by any means satisfactory to the public.

"3. That, in any future revision of the Poor Law and Lands Valuation Acts, special and exceptional cases might be considered and provided for; but, as a general rule, the gross valuation ought to be the basis of local, as it is of Imperial taxation."

Question proposed, "That the Draft Report proposed by the Chairman be now read 2°, paragraph by paragraph."—Amendment proposed, to leave out the words "the Chairman," in order to insert the words "Mr. Leslie," instead thereof—(Mr. *Leslie*).—Question put, That the words "the Chairman" stand part of the question.—The Committee divided:

Ayes, 8.	Noes, 4.
Mr. Baxter.	Major Bruce.
Mr. Blackburn.	Mr. Leslie.
Mr. Bouverie.	Mr. Mackie.
Lord G. Cavendish.	Sir G. Montgomery.
Sir J. Fergusson.	
Mr. Smollett.	
Sir John Ogilvy.	
Colonel D. Pennant.	

Paragraphs 1 and 2, *agreed to.*

Paragraphs 3 to 12 inclusive, read and postponed.

Paragraph 13.—Amendment proposed, in line 8, to leave out all the words after the word "is," in order to insert the words "the gross valuation," instead thereof—(Mr. *Leslie*).—Question, That the words "that provided in Scotland (in accordance with the principle adopted for such rating in England and in Ireland) for the Poor's Rate, by the Act 8 & 9 Vict.," stand part of the paragraph, put, and *agreed to.*

Amendment made.

Paragraph, as amended, *agreed to.*

Paragraph 14, amended, and *agreed to.*

Paragraph 15.—Amendment proposed in line 1, to leave out the words "are much," in order to insert the words "may be," instead thereof—(Mr. *Leslie*).—Question put, That the

the words "are much" stand part of the paragraph.—Question and amendment, by leave, withdrawn.—An Amendment made.—Amendment proposed, at the end of the paragraph, to add the words "moreover, that they arise in a great measure from the proper items of deduction not being ascertained and made out by the assessor, when making up the roll for the county or burgh, but being left to be disputed and determined between the assessing bodies and the rate-payers in the different parishes and districts"—(Mr. *Blackburn*).—Question put, That those words be there added.—The Committee divided:

Ayes, 3.	Noes, 11.
Mr. Blackburn.	Mr. Adam.
Mr. Mackie.	Mr. Baxter.
Colonel D. Pennant.	Major Bruce.
	Mr. Bouverie.
	Lord G. Cavendish.
	Mr. Dalglish.
	Sir James Fergusson.
	Mr. Leslie.
	Sir Graham Montgomery.
	Sir John Ogilvy.
	Mr. Smollett.

Paragraph, as amended, *agreed to.*

Paragraphs 16, 17, 18, and 19, *agreed to.*

Paragraph 20, amended, and *agreed to.*

Paragraph 21.—Amendment proposed in line 9, to leave out the word "thirty" in order to insert the words "twenty-five," instead thereof—(Major *Bruce*).—Question put, That the word "thirty" stand part of the paragraph.—The Committee divided:

Ayes, 8.	Noes, 6.
Mr. Adam.	Mr. Blackburn.
Mr. Baxter.	Major Bruce.
Mr. Bouverie.	Mr. Leslie.
Lord G. Cavendish.	Mr. Mackie.
Mr. Dalglish.	Sir Graham Montgomery.
Sir James Fergusson.	Colonel D. Pennant
Sir John Ogilvy.	
Mr. Smollett.	

Paragraph *agreed to.*

Paragraph 22, amended, and *agreed to.*

Paragraphs 23, 24, and 25, *agreed to.*

Paragraph 26.—Amendment proposed, line 1, to leave out all the words after the word "provision," in order to insert the words "seems to have proved quite sufficient in the change then effected, it is proposed that a similar power should be given to meet the change of assessment from gross to net income," instead thereof—(Mr. *Blackburn*).—Question put, That the words proposed to be left out stand part of the paragraph.—The Committee divided:

Ayes, 6.	Noes, 6.
Mr. Dalglish.	Mr. Adam.
Sir James Fergusson.	Mr. Baxter.
Mr. Mackie.	Mr. Blackburn.
Sir G. Montgomery.	Mr. Bouverie.
Mr. Smollett.	Major Cumming Bruce.
Sir John Ogilvy.	Mr. Leslie.

Whereupon, the Chairman declared himself with the Ayes.

Paragraph *agreed to.*

Paragraphs 27 and 28, amended, and *agreed to.*

Paragraph 29, *agreed to.*

Paragraph 30.—Amendment proposed at end of paragraph, to add the words, "It appears that it would be better that this charge should not be included in the deductions to be given, but that the proprietor who pays the rate should be entitled to deduct a proportionate amount from the teinds he pays, whether to the minister or titular"—(Mr. *Blackburn*).—Question put, That those words be there added.—The Committee divided:

Ayes, 4.	Noes, 7.
Mr. Blackburn.	Mr. Adam.
Major Bruce.	Mr. Baxter.
Mr. Leslie.	Mr. Dalglish.
Sir Graham Montgomery.	Sir James Fergusson.
	Mr. Mackie.
	Mr. Smollett.
	Sir John Ogilvy.

Paragraph *agreed to.*

Paragraph 31.—Question put, "That this paragraph stand part of the Draft Report."—The Committee divided:

Ayes, 6.	Noes, 5.
Mr. Baxter.	Mr. Adam.
Major Bruce.	Mr. Blackburn.
Mr. Dalglish.	Sir James Fergusson.
Mr. Mackie.	Mr. Leslie.
Mr. Smollett.	Sir Graham Montgomery.
Sir John Ogilvy.	

Paragraphs 32, 33, 34, and 35, *agreed to.*

Paragraph 36.—Amendment made.—Another amendment proposed, line 5, to leave out all the words after the word "reason," in order to in sert the words "for altering a distinct provision which does substantial justice," instead thereof—(Mr. *Blackburn*).—Question put, "That the words proposed to be left out stand part of the paragraph."—The Committee divided:

Ayes, 9.	Noes, 3.
Mr. Adam.	Mr. Blackburn.
Mr. Baxter.	Major Bruce.
Mr. Bouverie.	Mr. Leslie.
Mr. Dalglish.	
Sir James Fergusson.	
Mr. Mackie.	
Sir Graham Montgomery.	
Sir John Ogilvy.	
Mr. Smollett.	

Paragraph, as amended, *agreed to.*

Paragraph 37.—Amendment proposed in line 1, to leave out all the words after the word "that," in order to insert the words, "in the case of a branch line (notwithstanding it be part of the undertaking of the parent company), where the receipts arising from the traffic do not go into the general funds of the company, but are allocated to a special body of shareholders, that branch line should be separately valued from the main line," instead thereof—(Sir *G. Montgomery*).—Question put, "That the words proposed to be left out stand part of the paragraph."—The Committee divided:

Ayes, 5.	Noes, 5.
Mr. Baxter.	Mr. Adam.
Mr. Bouverie.	Mr. Blackburn.
Mr. Mackie.	Major Bruce.
Mr. Smollett.	Mr. Leslie.
Sir John Ogilvy.	Sir Graham Montgomery.

Whereupon, the Chairman declared himself with the Ayes.

Question put, That this paragraph stand part of the proposed Report.—The Committee divided:

Ayes, 3.	Noes, 7.
Mr. Baxter.	Mr. Adam.
Mr. Mackie.	Mr. Blackburn.
Sir John Ogilvy.	Major Bruce.
	Mr. Bouverie.
	Mr. Leslie.
	Sir Graham Montgomery.
	Mr. Smollett.

Paragraphs 38, 39, and 40, amended, and *agreed to.*

Paragraph 41.—An amendment made.—Question put, "That this paragraph, as amended, stand part of proposed Report."—The Committee divided:

Ayes, 9.	Noes, 2.
Mr. Adam.	Mr. Leslie.
Mr. Baxter.	Major Bruce.
Mr. Blackburn.	
Mr. Bouverie.	
Mr. Dalglish.	
Mr. Mackie.	
Sir Graham Montgomery.	
Sir John Ogilvy.	
Mr. Smollett.	

Paragraphs 42 and 43, amended, and *agreed to.*

Paragraphs 44, 45, 46, and 47, *agreed to.*

Paragraph 48, amended.—Question, "That this paragraph, as amended, stand part of proposed Report"—put, and *agreed to.*

Paragraphs 49, 50, 51, and 52, *agreed to.*

Postponed paragraphs 3, 4, 5, 6, 7, 8, 9, 10, 11, 12, *agreed to.*

Motion made, and Question proposed, That the following paragraph be added to the Report:—"An awkward difference at present exists between the date of lodging Appeals against the Railway Assessor's Valuation and those against the Valuation of the Burgh and the County Assessors; the former being the 8th September, and the latter the 30th November. The 8th September would seem quite suitable for both"—(The *Chairman*).—Question put, and *agreed to.*

Motion made, and Question proposed, That the following paragraph be added to the Report:—"Your Committee think that the Assessor of Railways should be bound, when required by the Commissioners of Supply of the County or the Magistrates of the Burgh, to give the particulars of his valuation, and to explain the manner in which he arrives at it"—(Sir *James Fergusson*).—Question put.—The Committee divided:

Ayes, 7.	Noes, 4.
Mr. Adam.	Mr. Baxter.
Major Bruce.	Mr. Blackburn.
Sir James Fergusson.	Mr. Bouverie.
Mr. Leslie.	Mr. Dalglish.
Mr. Mackie.	
Sir Graham Montgomery.	
Mr. Smollett.	

Motion made, and Question proposed, That the following paragraph be added to the Report:—"In the case of a branch line (notwithstanding it be part of the undertaking of the parent Company), where the receipts arising from the traffic do not go into the general funds of the Company, but are allocated to a special body of shareholders, that branch line should be separately valued from the main line"—(Sir *Graham Montgomery*).—Question put.—The Committee divided:

Ayes, 8.	Noes, 3.
Mr. Adam.	Mr. Blackburn.
Mr. Baxter.	Mr. Bouverie.
Major Bruce.	Mr. Smollett.
Mr. Dalglish.	
Sir James Fergusson.	
Mr. Leslie.	
Mr. Mackie.	
Sir Graham Montgomery.	

Question put, "That this Report, as amended, be the Report of the Committee to the House."—The Committee divided:

Ayes, 6.	Noes, 6.
Mr. Blackburn.	Mr. Adam.
Mr. Bouverie.	Major Bruce.
Lord G. Cavendish.	Mr. Dalglish.
Sir James Fergusson.	Mr. Leslie.
Colonel D. Pennant.	Mr. Mackie.
Mr. Smollett.	Sir Graham Montgomery.

Whereupon, the Chairman declared himself with the Ayes.

Ordered, To Report, together with the Minutes of Evidence and Appendix.

EXPENSES OF WITNESSES.

Name of Witness.	Profession or Condition.	From whence Summoned.	Number of Days Absent from Home, under Orders of Committee.	Expenses of Journey to London and back.	Allowance during Absence from Home.	Total Expenses allowed to Witness.
				£. s. d.	£. s. d.	£. s. d.
Mr. John Duncan	Advocate	Edinburgh	3	7 9 –	9 9 –	16 18 –
Mr. John Dykes	Solicitor	Hamilton (N.B.)	3	8 8 –	6 6 –	14 14 –
Mr. James Russell	Schoolmaster	Colinton, near Edinburgh.	4	8 – –	4 4 –	12 4 –
* Mr. Alexander Ramsay	Manager of Water Company.	Edinburgh	4	– –	4 4 –	4 4 –
Mr. Wm. J. Menzies	Writer to the Signet	Edinburgh	3	8 – –	6 6 –	14 6 –
Mr. James D. Kirkwood	Inspector of Poor	Govan, near Glasgow.	5	8 8 –	5 5 –	13 13 –
Mr. Wm. Bennet	Assistant Assessor of Railways.	Edinburgh	4	7 10 –	4 4 –	11 14 –
* Mr. Wm. Hay	Writer to the Signet	– – –	3	– –	6 6 –	6 6 –
Mr. Robert Readman	Secretary Forth and Clyde Navigation.	Glasgow	3	8 – –	3 3 –	11 3 –
Mr. George Dods	Assessor of Railways	Edinburgh	4	8 – –	8 8 –	16 8 –
Mr. Francis Cochran	Advocate	Aberdeen	4	6 8 –	12 12 –	19 – –
Mr. Alexander Cameron	Solicitor	Elgin (N.B.)	5	10 10 –	10 10 –	21 – –
Mr. F. S. Allan	Surveyor of Taxes	Dumfries	4	7 10 –	4 4 –	11 14 –
Mr. James Allanson Picton	Surveyor	Liverpool	4	3 15 –	8 8 –	12 3 –
Mr. David Carnegie Alexander	Writer to the Signet	Selkirk	3	7 – –	6 6 –	13 6 –
Mr. William Brown	Manufacturer	Galashiels	3	5 – 6	3 3 –	8 3 6
Mr. James Wilson	Assessor and Land Valuer.	Kilmarnock	3	7 15 –	3 3 –	10 18 –
Mr. Robert Paterson	Architect	Edinburgh	5	8 – –	10 10 –	18 10 –
Mr. Patrick Hunter Thoms	Gentleman	Dundee	4	10 10 –	4 4 –	14 14 –
Mr. John Finister	Gentleman	Aberdeen	4	9 – –	4 4 –	13 4 –
Mr. Archibald Paterson	Land Valuator	Edinburgh	3	8 1 10	6 6 –	14 7 10
Mr. T. G. Murray	Writer	Edinburgh	4	7 – –	8 8 –	15 8 –
					Total £.	293 18 4

* This gentleman was detained in London by order of the Committee, having been served with his summons to attend in London.

MINUTES OF EVIDENCE.

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MINUTES OF EVIDENCE.

Jovis, 23° *die Martii*, 1865.

MEMBERS PRESENT:

Mr. Blackburn.
Mr. E. P. Bouverie.
Major Cumming Bruce.
Mr. Dunlop.
Sir James Fergusson.
Mr. Wm. Leslie.
Mr. Mackie.
Sir Graham Montgomery.
Sir John Ogilvy.
Col. Douglas Pennant.
Mr. Smollett.

ALEXANDER MURRAY DUNLOP, Esq., in the Chair.

Mr. John Morison Duncan, called in; and Examined.

Mr. *J. M. Duncan.*
23 March 1865.

1. *Chairman.*] You are an advocate at the Scotch Bar?—I am.

2. And you have had occasion to turn your attention to the rules of law for imposing local rates and taxes, and valuations?—Some of them.

3. Will you have the kindness to give to the Committee a short summary of the various valuations according to which taxes and rates have been at different periods levied in Scotland?—I will try to do so shortly; and with the view of making it more intelligible, I may perhaps be allowed to give a short sketch of the earlier systems of valuation which were adopted in this country with a view to assessment for fiscal and other purposes. It has been conjectured that the earliest standard adopted as indicative of the worth of lands in Scotland, was one which had reference not to a monetary estimate of value, but to territorial extent and adaptability to cultivation; and this conjecture receives considerable support from the occurrence of certain phrases that are still to be met with in deeds of conveyance, in connexion with the identification of heritable subjects, such as "ox-gates" or "ox-gangs," and "plough-gates" or "plough-gangs" of lands, expressions which are generally understood is importing a determinate quantity of arable land, capable of being ploughed within a determinate period, the number of such portions of land embraced within a given estate being suggestive or demonstrative of its actual productiveness and value. If such a mode of classification of lands for the purposes of assessment did ever exist in Scotland, it is pretty certain that it was superseded at a very early period in the history of this country by a mode of valuation which proceeded on the basis of a monetary standard. Such a monetary standard was probably introduced by, and is certainly involved in the mode of the valuation of lands under the system technically known by the terms "old and new extent." The old extent was succeeded by the new extent, while both the old and the new extents were in their turn superseded by the mode of valuation introduced about the year 1643, and substantially adopted by the Government after the Restoration, and which is now known under the appellation of the "valued rent," in contradistinction to the rule of assessment known as that of the real rent.

4. We do not wish to go deeply into the "extents," but let me ask you, were these extents general valuations or inquisitions on each particular estate?—The old extent seems to have been a general valuation applicable to the lands throughout Scotland; the new extent, however, was one which apparently originated in consequence of the temporary deterioration in value of lands consequent upon the wars existing in Scotland at a very early period. It was accordingly the practice in the new extent to ascertain, at the time of returning the retour to Chancery, by which an heir was put into possession of the estate of his ancestors, the actual value of the lands, the purpose being to determine the amount of casualties to be paid upon that event.

5. Then, in 1643 the valuation was a general valuation over the whole kingdom?—It appears to have been, up to that time, a general valuation over the whole kingdom.

6. And under that "valued rent" valuation, does it appear that that was the actual rent, as at the time?—It does appear that the principle of valuation was one which had reference to the actual

Mr. J. M. Duncan.

23 March 1865.

actual rent, the real rent of the property at the date of the valuation being imposed; so much so, that the Act of Convention of Estates of the 15th August 1643, which, in point of fact, introduced or authorised this new system of valuation, contains these words: "deducting what is paid forth thereof to ministers, schoolmasters, superiors, tacksmen, life-renters, and colleges, which deduction, as to life-renters, tacksmen, and superiors, shall be charged upon them respectively." In so far as the charge is connected with ministers and schoolmasters that remained a deduction which was to be made in estimating the value of the lands with a view to assessment.

7. Did that valuation extend to every kind of property, or does it appear to have excluded any classes of property?—It appears to have extended to every kind of property, and it appears, in fact, to have been suggested in consequence of the annexation of 1637, by which the property belonging to the church was annexed to the Crown; that ecclesiastical property not having been included, apparently, either in the old or the new extent, but having been valued separately by a different system; and after the annexation of these lands was made, it seems to have been suggested as necessary and natural that a general valuation embracing these should be made.

8. In the Acts authorising that "valued rent" valuation, is there any specification of particular kinds of property?—Do you mean in the Act of 1643?

9. Either in that Act, or in the subsequent Act of Charles II.?—The expression is "the heritors, life renters, titulars, and others appointed for framing a detailed tax rule for each parish within the kingdom," and they are empowered "to use all legal ways to inform themselves of the just and true worth of every person or persons, their present year's rent of this crop in the year 1643, to landward, as well as of lands and teinds, as of any other thing whereby yearly profit and commodity ariseth."

10. It appears that under, in point of fact, these valuations, other subjects than land were valued?—Yes.

11. Such as fishings or mills?—Yes; every heritable subject, in fact, from which yearly value arose.

12. That valuation was confirmed after the Restoration and is now legally subsistent under the statute of Charles?—Yes.

13. Was there any provision made for a revisal or alteration of valuation from time to time, according to a change in the state of the property?—The Act of Parliament did recognise the necessity of a revision of the value of the property in the case of death, or of a diminution or increase in the value of the lands.

14. Does that appear ever to have been acted upon?—I am not aware that any direct evidence exists that it has been acted upon, but I should think there could be little doubt that that principle was applied, but I am not aware that there is any evidence, or that any instance can be adduced to show that it was actually the case?—

15. There is no subsequent legislative provision made for a re-valuation?—No.

16. Then the valued rent subsists substantially, exactly as it was originally?—It really does.

17. And no new property, such as the building of houses, or of manufactories, and no increased value by the improvement of the land are included under a valued land rental?—No, except in this way; various Acts of Parliament were passed, recognising the powers of the Commissioners of Supply, in connexion with the raising of loans for Government purposes for taxes, and so on, and they were authorised to re-allocate a proportional amount of the value. I should mention, perhaps, that the actual value of each county was to remain untouched, but that in so far as the lands within the county were concerned, the Commissioners of Supply had a power of re-allocation and adjustment between separate portions of property within the county. Very often they exercised that power, and in fact they do so still in cases where land has been sold and has become the property of two persons instead of one. In such a case, there is an adjustment of the cumulo valuation; the cumulo amount of the whole property is allocated between the two properties.

18. In allocating a cumulo amount I presume the Commissioners proceed upon the relative real value of the part sold and the part retained?—I am not able to say how that is. So far as I have been able to learn, the proceedings before the Commissioners of Supply are generally made a matter substantially of arrangement between the proprietors themselves and the clerk of the Commissioners of Supply. So that, in fact, I am not aware that any question has been raised in any case with reference to the precise principle upon which that re-allocation is to be followed out—namely, whether in the re-allocation there is to be taken into account the actual real value of the separate portions of the land at that date, or whether the simple cumulo amount of valuation which may have been imposed or struck at a very much earlier period, although much below the actual and real value at the time.

19. Are there still some rates exclusively leviable according to the old valued rent of 1643?—There are.

20. Will you mention them without going into details?—The assessments for the building of churches and manses in purely landward parishes, and assessments connected with schoolmasters' salaries, and the school-house and schoolmaster's house. Also the cess or land tax, and I believe also the rogue money, if not invariably, at all events very commonly, is imposed according to the principle of the old valued rent.

21. Then, that valuation was superseded by our late Act?—By the recent Valuation Act.

22. Will you state shortly the purport of that Act?—The Act is the 17 & 18 Vict. c. 91, passed on the 10th August 1854, and the object, as its preamble shows, is this: "Whereas it is expedient that one uniform valuation be established of lands and heritages in Scotland, according to which all public assessment leviable, or that may be levied, according to the real rent of such lands and heritages may be assessed and collected, and that provision be made for such valuation being annually revised," and so on. The Act provides in section 6, that in estimating the yearly value of lands and heritages the same shall be taken to be the rent, at which one year with another such lands and heritages might in their actual state be reasonably be expected to let from year to year, and so on; the object of the Act evidently being to ascertain from year to year what the actual value or supposed value of the land was as estimated

mated by the amount of the rent which from year to year they might be expected to realise.

23. Mr. *Leslie.*] To let for?—Yes.

24. *Chairman.*] In the interval between these two valuations, that of 1643 and that of 1854, were all the local rates leviable and levied according to the valued rent, or was there a discretion to levy according to the real rent?—The Poor Law assessment, which originated about 1579, and which made the support of the poor compulsory in Scotland, gave very great discretionary powers to the heritors, minister and Kirk Session, who were made the parochial guardians, the Poor Law Board of that period. It gave them great discretionary powers with reference to the mode in which the assessment for the support of the poor was to be made. It is perfectly certain that they did adopt both modes; that is to say, that they laid on an assessment in some cases according to the valued rent of the lands, and in other cases they appear to have adopted the other rule of assessment, namely, the real rent. But so far as the cases go, I think they show pretty clearly that the general rule was to adopt the valued rent as the standard of assessment rather than the real rent. The recent Poor Law Act has, of course, introduced a considerable alteration into that, because it has given discretionary powers to the parochial boards which are created under it, to assess according to one or other of the three modes pointed out in the Act of Parliament. In point of fact, the Poor Law assessment has been generally, recently at least, laid on (I mean before the passing of the recent Act) according to the old valued rent; but in some instances, and these not infrequent, according to the real rent.

25. Did the old Poor Law Act give any express discretion to lay on according to the real rent or the valued rent, or did it authorise them to lay upon the heritors, saying nothing about the mode of valuation according to which it was to be laid on?—It gave the heritors and Kirk Session very complete discretionary powers with reference to the rule which they were to adopt. They might either lay it on according to the valued rent or the real rent.

26. Is that expressed in any Poor Law Statute, or is it merely generally laid upon the heritors?—This quotation from the old Scotch Act of 1663, I think, answers the question.

27. Is that the Act under which the poor rates were leviable prior to the Act of 1845; was it not the Act of 1579?—That no doubt preceded the one I have mentioned. The statement is, that the hale inhabitants within the parish were to be assessed, and the mode of assessment was to be according to the estimation of their substance. The subsequent Act of 1663 made so far an alteration, or at all events introduced still greater discretionary powers, or pointed out perhaps more particularly the mode in which the assessment was to be laid on, for it provides "that the heritors of each parish, or as many in them as shall happen to meet upon public intimation at the parish church upon any Sabbath, or at the dissolution of the church, and so on, to make up a stent roll for the maintenance of the poor who shall be employed as said is at the rate aforesaid," one-half thereof to be paid by the heritors either conform to the old extent of their land within the parish or conform to the valuation by which they last paid assessment, or otherwise, as the major part of the heritors so meeting shall agree, life-renters and wood setters always being liable during their rights as heritors; and the other half thereof to be paid by the tenants and possessors according to their means and substance.

28. Before the Poor Law Act of 1845, had the custom of giving deduction to house property for repairs, &c. come before the courts, and been decided by the courts?—I am not aware that until the recent Poor Law Act was passed, questions connected with deductions to be made came prominently before the courts.

29. Are you not aware of the case of St. Cutberts, in which the court allowed a deduction of 25 per cent.?—I am aware of that. That arose, as I meant to point out, in consequence of the established mode, or the supposed established mode, upon which the assessments have been laid on. I meant to mention and explain that the discretionary powers, which had been conferred by these old statutes and exercised, were such as really under the old Poor Law Act to raise questions connected with deductions in one case, or no deductions in another, according to the particular form or rule which had been adopted in the assessments laid on for the support of the poor within the particular parish.

30. At that time, and before the Act of 1845, the court had sanctioned a deduction of 25 per cent?—It had sanctioned a deduction.

31. As a legitimate deduction?—As a legitimate deduction, in estimating the assessable rental.

32. Mr. *Leslie.*] Of house property?—Yes.

33. *Chairman.*] By the 41st section of the Valuation Act of 1854, is there not provision that all deductions that might have been made before, and all power of deduction, shall not be affected by that statute?—The 41st section states, "Nothing contained in this Act shall alter or affect any classification or power of classification, or any deduction or allowances, or power of making deductions or allowances, from gross rental, made or possessed by any body, persons or person, entitled to impose or levy assessments, but the same shall not affect the value to be inserted in the Valuation Roll in terms of this Act; and nothing contained in this Act shall exempt from or render liable to assessment any person or property not previously exempt from or liable to assessment."

34. Under that the entry of the value of any property in the Valuation Roll does not exclude any deduction that might lawfully be made?—It does not, as I read this statute.

35. A special provision is made for assessing railways and canals which run through several parishes and counties?—There is.

36. Would you explain shortly the nature of it?—The 22d section of the Valuation Act provides for the mode in which the yearly rent or value of railways and canals is to be ascertained: "The yearly rent or value, in terms of this Act, of the lands and heritages in any parish, county, or burgh belonging to or leased by any railway or canal company, and forming part of the undertaking of such company, shall be ascertained as follows, that is to say, there shall be deducted, in the first place, from the cumulo yearly rent."

37. Before going further, allow me to ask you whether there is not a special officer appointed by the Crown for making it?—There is.

38. Now, will you go on with your quotation?—"There shall be deducted, in the first place, from

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from the cumulo yearly rent or value of the whole lands and heritages in Scotland as aforesaid of 3 *l.* per centum of the whole cost as aforesaid of the stations, wharfs, docks, depôts, counting-houses, and other houses and places of business in Scotland, of and connected with the undertaking of such railway or canal company (including as aforesaid); and the proportion of such diminished cumulo rent or value corresponding to the lineal measurement of the portion of the line, including ferries attached thereto, of such railway or canal company, situated in such parish, county, or burgh, as compared with the lineal measurement of the entire line, including ferries as aforesaid, of such railway or canal company, with the addition of a sum equal to 3 *l.* per centum of the cost as aforesaid of any station, wharf, dock, depôt, counting-house, or other house or place of business within such parish, county, or burgh, of or connected with the undertaking of such railway or canal company (including as aforesaid), shall be deemed and taken to be the yearly rent or value, in terms of this Act, of the lands and heritages in such parish, county, or burgh, belonging to or leased by such railway or canal company, and forming part of its undertaking."

39. The assessor ascertains the cumulo value of the whole property, and, after certain deductions which are mentioned, he allocates, according to the lineal length in each separate parish or county?—Yes.

40. In regard of gas companies and water companies, they may apply to be valued by that valuer?—They may.

41. But there is some distinction made, I think, in regard of the mode; I do not think the lineal allocation is provided for; will you tell us what it is?—The clause is this: "Where any water company, or gas company, or other company, having any contiguous lands and heritages liable to be assessed in more than one parish, county, or burgh, shall desire to have such lands and heritages assessed by the assessor of railways and canals under this Act, it shall be competent to such water or gas or other company, to make intimation in writing of such desire, under the hand of its manager, secretary, or other principal officer, at any time before the 15th day of May, in the year 1855, or before the 15th day of May in any subsequent year, to the county within which such lands and heritages, or the head office and place of business in Scotland of such water, gas, or other company are situated; and such sheriff shall forthwith make such public advertisement of his having received such intimation as to him shall seem necessary or proper, and also shall make special intimation thereof to the assessor of railways and canals under this Act; and thereupon such assessor of railways and canals shall be exclusively charged, subject to appeal, as herein provided, with the valuation of the lands and heritages in Scotland of such water, or gas, or other company in terms of this Act; and such assessor of railways and canals shall, on or before the 15th day August 1855, and on or before the 15th day of August in every subsequent year, inquire into and fix in cumulo the yearly rent and value, in terms of this Act, of all lands and heritages in Scotland belonging to or leased by such water, or gas, or other company, and forming part of its undertaking, and shall also inquire into and fix the just proportion of such cumulo yearly rent or value applicable to each parish, county, and burgh in Scotland in which such water, or gas, or other company is liable to be assessed as aforesaid; and such assessor of railways and canals shall include in the valuation roll to be made up by him under this Act, all the water companies, gas companies, and other companies, whose lands and heritages shall be valued by him as aforesaid, and shall set forth in such valuation roll, in columns, the yearly rent or value, in terms of this Act, in cumulo, of the whole lands and heritages in Scotland belonging to or leased by each such water, gas, and other company respectively, and forming part of its undertaking, the names of the several parishes, counties, and burghs, in which its said lands and heritages, or any part thereof are situated; and also the yearly rent or value, in terms of this Act, of the portion in each such parish, county and burgh, separately and respectively, of the lands and heritages belonging to or leased by each such water, gas, and other company respectively, and forming part of its undertaking."

42. Then, according to your view of that provision, is the just proportion, a matter left in the discretion of the assessor?—It is, subject to appeal.

43. He would not be obliged to take the lineal measurement?—No.

44. But, according to all the circumstances, he is to give what he considers a just and fair proportion?—Yes; there is an appeal to the two Judges of the Court of Exchequer.

45. I think, in regard to any valuation of other lands, there is an appeal first to the Commissioners of Supply?—Yes.

46. Then, if the parties are dissatisfied with the Commissioners' decision, what redress is there?—Under this Act they can bring deliverance under the review of the two Judges of the Court.

47. By getting the Commissioners to state a Case?—Yes; then the question whether their opinion is to be adhered to or not, is made the subject of appeal to the Judges of Exchequer.

48. And they decide upon the Case submitted?—Yes; and that is final.

49. Mr. *Leslie.*] Do the Commissioners sign a submission?—Yes, they state a Case and the opinion of the Commissioners upon it; the judgment of the Commissioners is then brought up by review, if desired, before the Judges in Exchequer, and disposed of finally.

50. *Chairman.*] The rule of valuation laid down in the Act is, where lands are let, to take the actual rent?—Yes; where it is a *bonâ fide* rent.

51. Where the property is not let?—Then the estimation is according to what they may be reasonably expected to let for from year to year.

52–54. Some questions have been brought before the Judges in Exchequer in reference to whether land let for the season, as grass parks, is to be considered as let, or to be valued?—They are held to be subject to valuation. Where grass parks are let only for a portion of the year, the proprietor is still considered, *quoad* the matter, the occupier of the ground; and the rent which is obtained, whatever it be, is not considered the standard by which to estimate the value of these grass parks; their value is to be determined independently of that.

55. *Chairman.*]

55. *Chairman.*] What is the date of that decision?—The case of Allan *v.* Maitland was in 1858.

56. Have you the printed papers which are circulated by the Inland Revenue Office giving those judgments?—I have not.

57. Will you go over the different rates, county and parish rates, and give us some account of the authorities by which they are imposed, and the rules for their imposition?—The principal local rates are the following: the poor rates, the cess and land tax, the rogue money, the prison assessment, statute labour, the assessment under the Lunacy Act, police rates, militia money, weights and measures, county voters' registration, schools and schoolmasters, churches, manses, and burial-grounds. These are the principal parochial and county rates with respect to which the question in regard to the mode of assessment comes to apply.

58. Mr. *Leslie.*] Some of these are under the old valued rent, and some on the new system?—Yes.

59. Colonel *Douglas Pennant.*] The mode varies in the several instances?—Yes.

60. *Chairman.*] Will you go over them *seriatim*, and let us know how each is levied?—With regard to the poor-rates, I have already mentioned that the mode of assessment under the Act of 1579, and also that adopted under the Act of 1663 (was confirmed by an Act of the Privy Council in 1692) under which the assessment for the poor's rate has continued to be levied till a very recent period. As I mentioned, the discretionary power which was vested in the heritors was very great, and occasionally in laying on the assessment they adopted the rule of the real rent, but generally of the valued rent applicable to lands within the different parishes.

61. Mr. *Leslie.*] How did they ascertain the real rent?—By the actual valuation at the time, for the particular year, of the lands and heritages, independently of the valued rent entered on the cess book.

62. *Chairman.*] Each parochial board of heritors and Kirk Session made a valuation of their own?—Yes.

63. Mr. *Leslie.*] Each heritor giving his own rental?—Certainly. They examined at the time when the assessment was to be imposed what, in their opinion, the real value of the lands was, independently of the value which might apply to those lands as entered in the cess-books, which represented the valued rent as opposed to the real rent, the rent ascertained at a former period, and perhaps never changed for many years together. The truth is, that the real rent seems to have been generally adopted in the case where there was a large increase in the population in a particular parish, and where a considerable amount of manufacture or of trade came to be carried on.

64. The effect of imposing an assessment on the real rent was to bring in all the house property and manufacturing property which otherwise would have been exempted?—Quite so. There is an instance in a recent case of Croll *v.* the Scottish Railway Company, in 1861, where the real rent had been adopted by the heritors instead of the valued rent.

65. Was that disputed in 1861?—No, it was not disputed. I merely gave that as an illustration of its existence; the case, however, indicating this, from the opinion of the Judges and other sources, that this was rather an exception to the rule than the rule in reference to the mode in which these poor's rates used to be imposed.

66. Colonel *Douglas Pennant.*] Is the chargeability upon the rate limited to the same district in which the assessment was made, or have you any common fund to which the different parishes contribute?—I was going to explain the manner in which it works. This mode of valuation existed till the recent Poor Law Act of 1845, which authorised a different mode of assessment to be adopted. It is merely a permissive Act, and it is not at all necessary that the poor's rates in the different parishes should be laid on according to its provisions, but power is conferred upon the several parochial boards with the sanction of the Board of Supervision, to adopt one or other of the three modes of levying the assessments which are introduced by this Act.

67. *Chairman.*] They cannot take any other mode than one of those three?—After they have adopted one of the three modes they must adhere to it.

68. And they can adopt no mode but one of those specified?—No.

69. Major *Cumming Bruce.*] Can they not change the mode?—The Board of Supervision may. The section of the statute is section 34, which provides that when the parochial Board of any parish "shall have resolved to raise by assessment the funds requisite, such board shall either at the same meeting, or at an adjournment thereof, or at a meeting to be called for the purpose, resolve as to the manner in which the assessment is to be imposed, and it shall be lawful for any such board to resolve that one-half of such assessment shall be imposed upon the owners, and the other half upon the tenants and occupants of all lands and heritages within the parish or combination, rateably, according to the annual value of such lands and heritages, or to resolve that one-half of such assessment shall be imposed upon the owners of all lands and heritages within the parish or combination, according to the annual value of such lands and heritages, and the other half upon the whole inhabitants, according to their means and substance, other than lands and heritages situate in Great Britain and Ireland."

70. *Chairman.*] There is no power to lay on the poor's rate according to the valued rent?—No.

71. The existing valuation Act had not then passed?—No, it is an Act preceding the valuation Act.

72. They must have laid on the assessment according to one or other of the modes pointed out in this statute?—Yes.

73. In ascertaining the value, that statute makes authoritative the deduction which formerly had been in some measure discretionary?—It does. The 37th section provides "that in estimating the annual value of lands and heritages, the same shall be taken to be the rent at which one year with another such lands and heritages might in their actual state be reasonably expected to let from year to year, under deduction of the probable annual average cost of the repairs, insurance, and other expenses, if any, necessary to maintain such lands and heritages in their actual state, and all rates, taxes, and public charges payable in respect of the same: provided always, that no mine or quarry shall be assessed unless it has been worked during some part of the year preceding the day on which the assessment may be

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be ordered to be levied." So that the statute introduces the new mode in which the assessment may be laid on according to the annual value, and it determines how the annual value is to be estimated.

74. Since the passing of the Valuation Act, the parochial board must take the valuation there as the basis of their assessment, making what deductions they are bound to make under the Act of 1845?—Exactly.

75. Mr. *Mackie.*] Are you aware that in many cases they make no deductions at all, and that the gross sum is taken as the value for the poor rate?—Do you mean under the Poor Law Act?

76. Yes; are you aware that that is the case in many parishes?—I am not able to answer that question.

77. Mr. *Leslie.*] It is not compulsory to make any deduction; they can levy upon the gross rental if they choose?—If the parties are willing to be assessed upon that principle.

78. *Chairman.*] Under that clause any individual might insist upon deductions being made?—Yes, he has a right, as I read the statute, under the 37th section, to demand that these deductions should be made.

79. Major *Bruce.*] What appeal is there in case they are not made?—An appeal to the Board of Supervision.

80. *Chairman.*] Might he not go to the Court of Session?—They can raise the whole question by a suspension of the charge for the assessment.

81. Major *Bruce.*] Can the Poor Law Board decide finally, or is there an appeal?—They have no power to decide it finally, because any individual may get a suspension of the charge for payment and then go before the court and raise the whole question of the regularity of the mode.

82. The words which you have quoted in the Act are very much in substance words which are used in our English law to arrive at the rateable value of property in England?—I am not able to answer that question.

83. *Chairman.*] Is there anything further with regard to the three modes of assessment under the poor-rates you wish to state to us?—I do not think there is.

84. Sir *Graham Montgomery.*] With regard to the three modes of assessment under the Poor Law Act, let me ask you whether the first mode is not the one most generally adopted in towns?—I believe it is. I do not wish to express any opinion upon that matter. It is a matter of practice with which I do not profess to be at all familiar. I understand that the first of the three modes is the one most in use.

85. Both in towns and country parishes?—I believe it is the one most in use indiscriminately over the country. From personal knowledge, I do not know how the matter stands, but I understand that to be the case from information communicated to me. I do not know it as a matter of fact. I should think it could be easily ascertained.

86. *Chairman.*] The next is the land-tax?—The land-tax, which is now a permanent tax upon the country, an annual tax of somewhere about 47,000 *l.*, is payable by the burghs and shires. The inhabitants of the burghs are assessed by stentmasters, according to their rents and incomes, and within these expressions are to be understood the rents of their houses, the profit they derive from their trades, and their personal estate. The inhabitants of the shires are assessed by the Commissioners of Supply according to the yearly revenue of their land, as fixed by the Commissioners of Supply, that is, according to the valued rent of their respective properties. And while the Commissioners of Supply cannot vary the amount of the cess applicable to each county throughout Scotland, they can, as I have already mentioned, apportion the respective amounts assessed payable by different proprietors as they see proper.

87. Mr. *Leslie.*] On the land changing hands?—Yes. I believe, so far as I have been able to obtain information on the subject, that that is practically almost the only case in which the Commissioners exercise this power; that is, where the lands change hands.

88. And they only ratify and confirm private arrangements between the parties?—I believe that is substantially the case.

89. *Chairman.*] There is the power of redemption, which has been exercised?—No doubt, to a large extent.

90. The recent Valuation Act does not come into play in regard to this?—It only comes into play in this way, and this is perhaps the only point to which it is necessary to call the attention of the Committee: it is provided by the 40th section, that after the completion of the first valuation under this Act, it shall be in the power of the Commissioners of Supply to assess on the said valuation, and any subsequent valuation, the rogue money, and all other assessments now levied on the valued rent. This 40th section, therefore, seems to confer a power upon the Commissioners of Supply, after the first year's valuation, to levy the cess, not according to the rule which appears to have been the rule of assessment formerly, namely, the valued rent of the property, but according to the valuation of the property as fixed by this statute.

91. Allocating according to the new valuation within the county the cumulo amount of land tax proportioned to the county's total valued rent?—According to the real value; that is to say, the value of their lands and heritages as made up in accordance with the statute.

92. If that construction is right, it would enable the Commissioners of Supply to transfer a portion of the land-tax from the property previously valued to a class of property which had never been contemplated?—If the view I have taken is correct, it would lead to that result.

93. *Chairman.*] The rogue money is next?—This assessment also was in use to be raised according to the valued rent of lands and heritages; it is recognised by the 11 Geo. 1, c. 26. The object of it was to provide a fund to defray the charges of apprehending criminals, and for subsisting them until prosecution. The 2 & 3 Will. 4, transfers the power of collection, and application of rogue money from the freeholders, to whom it was given by a former statute, to the Commissioners of Supply, and the 2 & 3 Vict. c. 65, confers the power of raising an additional assessment for maintaining a police force in the county; and, in particular, it provides that instead of assessing the rogue money on the valued rent, the Commissioners of Supply were empowered, if they saw fit, to assess and collect the whole assessment originally and conditionally in the way that the assessment on landward parts of counties is authorised to be assessed by the 2 & 3 Vict. c. 42, which is the Act with regard to prison discipline, which I shall

shall mention hereafter, if you desire. There are certain provisions connected with this power; it is provided that the Commissioners cannot assess land for the purposes of this Act within a royal burgh or in a burgh or a town which has a Police Act, or has taken the benefit of the 3 & 4 Will. 4, c. 46. Then, by the 10 & 11 Vict. c. 42, there are certain exemptions granted which I need not detail with reference to parties whose rents do not exceed 2 *l.*

94. Mr. *Bouverie.*] What was that Act? — One of the Police Acts. Certain other statutes were passed in connection with this rogue-money assessment. There was the 13 & 14 Vict. c. 33, for regulating the police of towns. The assessment was to be levied on the yearly rent or value of premises within the borough, which was to include, under the construction put by the statute, any populous place within the boundary specified by the Act. The Valuation Act of 1854, by the 40th section authorised the Commissioners of Supply to assess on the valuation under this Act for this rogue money, and this provision has been repealed in the subsequent Act of the 20 & 21 Vict. c. 72, which provides that the police assessment for the purposes of this Act shall be levied by the Commissioners of Supply, according to the yearly value as established by the valuation rolls under the 17 & 18 Vict. c. 91; that is the Valuation Act. That is the position in which the rogue money assessment is levied.

95. *Chairman.*] The prison assessment is especially provided for? — The 2 & 3 Vict. c. 42, was the first statute which applied to it, and it contained very minute provisions with reference to the mode in which the assessment is to be laid on. The sums raised for the purposes of the Act are to be levied in the county, apportionable between the landward and burghal districts, according to the population, and the gross sums leviable in the landward part of the county were to be assessed by the Commissioners of Supply, according to the valued rent of the property in the valuation rolls of the county; and in lands not so entered, on the valuation, according to their actual annual value.

96. What is the date of the Prison Act?— 1839. It is the 2 & 3 Vict. c. 42.

97. Some years before the Valuation Act?— Yes. Then subsequent statutes are passed in connexion with it. There is the 7 & 8 Vict. c. 34, amending and continuing this Act which I have just mentioned. And then there is following that the 14 & 15 Vict. c. 27, which amends so far the two last recited Acts, in particular, with a view of improving prisons and prison discipline in Scotland; and then we have the Valuation Act itself applicable to this assessment, including it among the others.

98. What is the number of it?—It is section 32. "From and after the establishment of valuation of the lands and heritages in Scotland under this Act, every assessment which shall or might lawfully be assessed or levied under an Act passed in the Session of Parliament, holden in the second and third years of the reign of Her present Majesty intituled 'An Act to improve Prisons and Prison Discipline in Scotland' upon any lands or heritages according to the annual value of such lands or heritages shall be assessed and levied upon the basis of the valuations for the time being established under this Act; and the said last recited Act is hereby repealed to the extent which may be necessary to give effect to this enactment, and no further." The last of the Prison Acts is, I think, the 23 & 24 Vict. c. 105.

99. It makes no alteration?—It does not make any alteration.

100. Mr. *Blackburn.*] Under the first Prison Act you were assessed in the same way as under the Poor Law Act?—On the basis of the valuation, but the basis allowed deductions. Under the 2 & 3 Vict., 1842, the assessment was to be levied in the county, and apportioned between the landward and burghal portion, and the gross amount of the sums leviable upon the landward part of the county was to be assessed by the Commissioners of Supply according to the valued rent of property in the valuation rolls of the county at that time.

101. *Chairman.*] Then there was something as to other property?—In lands not valued, it was according to the annual value of the property. That is, with reference to the lands which were entered in the cess books, the mode of assessment was to be according to the valued rent applicable to them. But in cases where lands were not entered in the cess book, the amount of the valuation was to be according to what was estimated the annual value at the time.

102. Do you construe that as extending beyond lands proper as to houses and manufactories, or do you confine it to this that lands proper only where they were not entered in the valued rent-roll, a separate estimate was to be made?—I should infer from the expressions in the statute, and from the circumstance that the land in landward parishes, that is, apart from burghal portions, were all entered in the cess books, I should infer, that it applied not only to landward portions of the parish, which may not have been entered in the cess books, but also to those portions of landward districts upon which, for instance, manufactories and other works have been built.

103. Mr. *Leslie.*] Lands and heritages?— Lands and heritages.

104. *Chairman.*] Then there is statute labour? —That originated by an old Scotch Act of 1669, chapter 16, which imposed personal service, or statute labour, for the formation of roads. It also laid on a stent or assessment on the heritors of shires, and those of boroughs within the same, not exceeding 10 *s.* on each 100 *l.* of rent in the year as entered in the cess book. The original Scotch law, with reference to this matter, was affected and altered by the 8 & 9 Vict. c. 41, which was passed in the year 1845, and under it the trustees appointed by the Act might, at general meetings order, if they thought fit, that the performance of statute service, and the levying of conversion money, or assessment in lieu thereof, should cease in any particular county or district; and they were entitled to assess, at a general meeting in any districts of the county, any sum not exceeding the amount of the conversion money, and cause the same to be levied on lands, buildings, and other heritable subjects, payable one-half by the owner, and the other half by the occupants of these lands. In the case of such assessment being imposed, the annual value of the lands and heritages is to be ascertained by the trustees, either in the manner prescribed by the local Acts now in force in different counties with reference to roads, or in like manner as the annual value of lands and heritages is to be ascertained in counties and boroughs respectively. Under the 2 & 3 Vict. c. 42, that is the valued

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rent in regard to such property as is entered in the cess book, and the annual value of lands or heritages in reference to such property as is not entered in the cess book.

105. Is there not a separate assessment not included in your list applicable to bridges, something distinct from roads?—I understand the bridge money is included both under the old Act and this Act of Victoria; certainly under the Act of Victoria it is so, because it specially applies to roads, bridges, and ferries; the provisions, in fact, of the old Scotch Act are supposed to extend also to it. Certainly, this Act of Victoria does so, and does include bridges.

106. Major *Bruce.*] That mode of valuing for the purpose of statute labour, roads, and bridges, and ferries, you say, is under two conditions; either it may be levied according to the custom in each county, or according to a principle laid down in the general Act?—Yes.

107. Is it practically the case that it is levied in different ways?—I am sorry to say that I cannot answer that question; I do not know how the matter, in fact, stands. I believe, in most counties, there are local Acts with reference to the roads. I cannot answer the question as a matter of practice.

108. You cannot give any information as to the degree in which these local Acts differ in different counties?—I am not acquainted with the different local Acts.

109. Are you aware that there is a great diversity in the practice under these local Acts?—I understand there is a great diversity under the local Acts themselves.

110. Can you tell us what is included under the term "lands and heritages;" does it imply property from which any profit is derived?—Heritable property, that is, houses, mills, fishings, shootings, are all considered, according to the law of Scotland, as I understand it, heritages.

111. Mr. *Leslie.*] Real property?—Real property. There are, no doubt, questions connected with the shootings and other rights of that kind, questions connected with their assessibility in cases, for instance, where they are let or not let; but in so far as being accessories of heritable rights, I understand them to be included in the term heritages, according to the law of Scotland.

112. *Chairman.*] The next rate is the assessment under the Lunacy Act?—That is under the 20th and 21st of Victoria. The expense of providing and maintaining district asylums is to be ascertained by the Board of Lunacy appointed under the Acts, and apportioned on landward parts of the counties and burghs, according to the real rent of the lands and heritages in the terms of the 17th and 18th Victoria; and the board have to intimate to the Commissioners of Supply and the chief magistrate of the burgh, the sum leviable thereon respectively, and that is to be assessed and levied according to the real rent of the properties, under the like deductions and exemptions as if such portions of the gross amount were portions of the gross amount of sums estimated in the terms of the 40th section of the 2d and 3d Victoria, chap. 42, which is the Prison Act.

113. Mr. *Leslie.*] The Lunacy Act goes hand in hand with the Prison Act?—Yes.

114. Colonel *Douglas Pennant.*] And the rate is levied in the same way?—On the same principle.

115. And that principle is the full rental value?—

116. Mr. *Blackburn.*] Which do you say is the Prison Act?—The 2d and 3d of Victoria, chap. 42. The 30th section states, that there are to be the like deductions and exemptions as if such portions were portions of the gross amount of sums estimated in the terms of the 40th section of the 2d and 3d Victoria, chap. 42. The real rent of the land and heritages for the purpose of assessment is to be ascertained in the terms of the provisions contained in the 17th and 18th Victoria.

117. That could scarcely be; the Act of 1842 could not refer to an Act which passed several years afterwards?—The gross amount has reference to the apportionment of it between the landward and the burghal portions of the parish. In estimating the annual value, the 17 & 18 Vict. c. 91 is to be the rule.

118. Major *Bruce.*] You say this rate is levied upon the gross rental?—Yes, upon the gross rental, that is to say, it is levied in the same way, according to the same rule of assessment as is recognised by the 17 & 18 Vict. c. 91.

119. That is not the mode of assessment which is in operation for the Poor Law?—No.

120. Mr. *Blackburn.*] I think the 17th & 18th of Victoria does not say that the rate shall be levied upon the sum stated in the Act, but that that shall be the basis upon which the rate shall be levied, leaving the question whether it is to be levied in gross or not to the separate Acts applying to the rate wanted. The valuation is gross, but it does not say that the valuation is to be made upon the gross, but only to be the basis upon which the thing is founded?—It introduces a basis or principle of valuation.

121. The rate may be upon the gross or upon the net, taking that as a basis to find what the gross is?—It may be so.

122. Mr. *Mackie.*] All these rates come under the name of county rates, and, as I understand it, all the county rates are levied, without any abatement at all, upon a gross sum?—I understand in point of fact that that is the case; that generally speaking, if not invariably, county rates are assessed upon a gross sum.

123. So that with the exception of the poor's rate, all the rates which you have mentioned are laid on upon the gross sum?—I think they are all.

124. That is the practice?—That is the practice, I understand.

125. Sir *J. Ogilvy.*] The valuation roll is the rule?—Yes, and all that has to be said about the old valued rent, so far as I can follow it is this, that while at the time it was introduced it did itself proceed not upon the complete gross rental, it really recognised certain deductions in estimating the gross rental, with a view to laying on the cumulo sum of valuation upon the lands. I should suppose, certainly, that ministers' stipends and schoolmasters' salaries, and so forth, and possibly assessments connected with the churches and manses, although that is not quite so clear, were included as deductions in estimating the amount. At the same time the principle upon which even the old valued rent proceeded seems to have been one recognising certain deductions to be made before the assessable value was ascertained, before the valuation of lands with a view to assessment was made. Now, the valued rent which has existed and exists in all different counties,

ties, having been struck at a certain sum applicable to each county, comes now to represent the real rent at the present time, although, in point of fact, it was itself introduced and struck according to the real rent, that is, the real value of the subjects, under certain deductions. The same principle was recognised in that Act.

126. Mr. *Leslie.*] How do you find that?—From the old Act itself. In striking the valuation of the lands in counties it is seen, from the quotation which I made from the old Act of 1643, that there is a deduction for what is paid to ministers, schoolmasters, and so on. These charges were to be deducted before the valuation was made.

127. *Chairman.*] Then there is nothing in principle to have prevented the Commissioners of Supply from having made deductions on assessments laid on the real rent prior to this Valuation Act?—I think not.

128. Nor anything in their Valuation Act to preclude their exercising that power?—So I understand.

129. The next is with regard to the militia assessment?—That is introduced by the 17 & 18 Vict. c. 102, and it provides that "the sums required for the maintenance and use of premises shall be raised by the Commissioners of Supply, according to the real rent of the county, including the burghs within it, in like manner and subject to the like provisions as assessments for local prison purposes are laid on and recovered by the prison board. The Commissioners may raise the sums required at any time. In the case of burghs contributing to assessment for prison purposes separately from landward parts of the county, the amount due by the burghs is to be levied by the Commissioners of Supply upon it, according to the real rent of such burghs, *quoad* the real rent of the whole county." The subsequent of the 23 & 24 Vict. c. 94, does not make any substantial alteration.

130. Is there any peculiarity about the weights and measures?—They are to be assessed by the Commissioners upon shires and cities and royal burghs, and paid with the land-tax. The expressions in the Act of Weights and Measures, 5 & 6 Will. 4. c. 63, seem only indirectly to imply that the rule of assessment with reference to the weights and measures is to be substantially the same as that with reference to the land-tax, from which I infer that it was to be according to the valued rent.

131. The next is the county voters' registration?—The expenses connected with registration, and so on, are to be laid on according to the yearly rent or value of such lands and heritages, and to be collected along with the county rate for the current year; that is provided by the 24 and 25 Vict. c. 83.

132. Then, with regard to schools and schoolmasters?—That stands, perhaps, in a somewhat peculiar position. The old Act of 1696, c. 26, was the one which imposed the duty on the heritors of assessing themselves for the expenses of the school-house and the schoolmaster's salary, according to their valued rent; and they were to have relief against the tenants for half the amount of assessment. That Act clearly recognises, indeed enjoins, the rule of the valued rent being that according to which the assessment was to be imposed. The 43 Geo. 3, c. 54, which imposed the duty of providing a dwellinghouse for the schoolmaster does not make any alteration in the rule of assessment; it merely provides for increasing the amount of the salary of the schoolmaster from one sum to another. In the recent Schoolmasters' Act, the 24 and 25 Vict. c. 107, nothing is said as to building schools, and nothing as to assessments, but the position in which it stands seems to be, although it is not very clear, that the rate for the schoolmaster's salary, and for building and repairing the schoolmaster's house, is still to be imposed, according to the rule of the valued rent, as introduced by the Scotch Act of 1696. The recent Schoolmasters' Act says, in one of the sections, that the salary is to be assessed, levied, and paid in the manner hereinbefore provided, but it does not provide for the manner in which it is to be assessed, or levied, although it has provided for the manner in which it is to be paid, namely, in money. The Act of 1803, in the same way, says nothing with reference to the mode in which the assessment is to be laid on; it merely makes increased provision with reference to the salary and accommodation for the schoolmaster. It leads back to the original Act of 1696, and, apparently, the rule of assessment is according to the valued rent alone.

133. According to the rule you have mentioned, it is not competent under the Valuation Act to transfer it to the real rent?—The position in which this Act of Parliament seems to stand is this: that it was intended to introduce a uniform valuation, according to which all public assessments leviable, or that may be levied according to the real rent of such lands and heritages, were to be assessed and collected. But if I am correct in representing that the rule of assessment applicable to schoolmasters' salaries and so on shall be according to the valued rent, it does not seem to be quite clear how far this valuation may be said to apply. However, in the 40th section it provides that after the completion of the first valuation under this Act, it shall be in the power of the Commissioners of Supply to assess on the said valuation, and any subsequent valuation, the rogue money, and all the other assessments now levied on the valued rent.

134. Mr. *Blackburn.*] Does not that merely apply to rates levied by the Commissioners of Supply?—I do not suppose that this 40th section can be made to apply so as to include within its scope the assessment applicable to the schoolmaster's salary. And as the introductory part of the Statute seems to apply simply to the case where assessments are made according to the real rent, it does not in that other alternative seem to apply to either.

135. *Chairman.*] Wherever, under existing statutes, there was an option to assess according to the valued rent or the real rent, the Valuation Act now requires it to be according to the real rent?—Yes.

136. But where it is only leviable by such statute according to the valued rent?—Then it does not seem distinctly to apply.

137. Mr. *Blackburn.*] A parochial schoolmaster is a fixed charge on each estate. The amount does not vary by any variation in the value of the estate. The same sum is always to be paid?—Yes.

138. Sir *James Fergusson.*] In the case of all assessments levied under the provisions of any Act of Victoria, with the exception of the Poor Law Act, I understand the assessment is made upon the rental without deduction?—Upon the rental without deduction.

139. *Chairman.*]

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139. *Chairman.*] I thought, in answer to a question I put, you said that the Valuation Act did not exclude any power of making deductions which might have existed previously?—Certainly not; in those cases where the assessment is imposed or levied according to the valued rent of the subjects there is in truth, no deduction from the gross rental, except so far as that deduction was recognised in the original laying on of the valued rent.

140. When that valued rent was originally struck?—Yes.

141. Then with regard to churches?—The position in which the valuation with regard to churches is placed seems to be this; that in the case of a purely landward parish the assessment to be imposed for building a church or repairing a church, seems to be according to the valued rent; but in the case where the church is in partly a burghal parish, or in a parish called partly burghal and partly landward, the rule seems to be according to the real rent. Courts of law have never recognised two different modes of assessment in the same parish as applicable to the burghal part and landward part; and in the case where a parish is partly burghal, they have laid on the assessment according to the real rent at the time of the assessment, and as opposed to the valued rent appearing in the cess book. That principle was recognised at a pretty early period—at the beginning of this century, and I believe it has been since adopted without any variation. The only question which occurs now sometimes is, as to whether or not a particular parish is purely landward or partly landward, and partly burghal; and with reference to that, the decisions of the courts seem to be pointed to this. That wherever in a landward parish the manufacturing population, or a population resident on the estate, hold a large proportion, or a considerable proportion to that of the entire parish, there they consider it to be a burghal parish, and the assessment is laid on, not according to the valued, but according to the real rent. The Valuation Act, which I have said is entirely applicable to the case where the assessment is levied according to the real rent, is in this peculiar position with reference to churches, that, under the law as I have now mentioned it, there are several parishes where the assessment is to be laid on according to the valued rent. In the case of these parishes it seems to be open to question whether or not this Valuation Act can be said to have any application. But on the other hand, with reference to the cases where the assessment is to be laid according to the real rent, the provisions of this Act apparently do apply. But the difficulty of appreciating how far it does or does not apply, arises from the peculiar provisions which occur in the 33d section, applicable to the assessment for parish churches in a particular place. And it is this: "That where in any county, burgh, or town, any county, municipal, parochial, or other public assessment, or any assessment, rate, or tax under any Act of Parliament, is authorised to be imposed or made upon, or according to the real rent of lands and heritages, as appearing from the valuation roll in force for the time under this Act in such county, burgh, or town, shall, from and after the establishment of such valuation therein, be always deemed and taken to be the just amount of real rent for the purposes of such county, municipal, parochial, or other assessment rate or tax, and the same shall be assessed and levied according to such yearly rent or value accordingly, any law or usage to the contrary notwithstanding; provided always, that when the area of any parish-church heretofore erected has been allocated among the heritors according to their respective valued rents, as appearing upon the present valuation rolls, all assessments for the repair thereof shall be imposed according to such valued rent; and where, in any county, borough or town, any county, municipal, parochial or other public assessment, or any assessment, rate or tax under any Act of Parliament, other than poor rates, is or might be assessed upon means and substance, such assessment shall, from and after the establishment of valuations under this Act, be assessed and levied upon the yearly rent or value, in terms of this Act, of such lands and heritages within such county, borough or town, one-half upon the owners, and the other half upon the tenants and occupiers of such lands and heritages, but subject to the provisions and exceptions hereinbefore made and provided as regards lands and heritages separately let at a rent not amounting to 4 *l.*, and all such laws and usages to the contrary are hereby repealed, in so far as necessary to give effect to this enactment, but no further." One would infer from the exception which is introduced in this 33d section, that the assessment for churches even in purely landward parishes, was intended by the statute to be recognised as assessable according to real rent, except in the case of repairing a parish church, or where the seats had been allocated among the heritors.

142. *Chairman.*] The first part of the section describing the sort of assessment that shall hereafter be laid on according to the valuation roll, does it not bear the construction that wherever, under the statutes, the heritors or the party laying on the assessments, might have taken the real rent, it would be held in the meaning of sec. 33 to be "authorised" that to be taken, then it must hereafter be so laid on. The question would be, do you conceive that the statutes under which churches are built, authorise the heritors at their discretion to select the one or the other?—No doubt they may have had the option to impose according to one or the other mode; it must be construed according to the decisions of the courts.

143. Have not the decisions of the courts been, that having the selection of the two, they ought, in the particular circumstances of the case before them, to have selected the real rent and not the valued rent; not that the Acts, under which they built the churches, limited them to the valued rent in landward parishes?—I agree with that remark.

144. Then, the clause in the Valuation Act, would enforce now the laying it on upon the real rent in every case, except in the repairs of churches already built and allocated?—If that is the construction to be put upon the statute, the inference is pretty certain that that doctrine would apply.

145 Is there any peculiarity about manses?—Substantially, there is nothing of importance to call the attention of the Committee to.

146. They follow the rule in churches?—The rule is substantially the same.

147. In laying on, according to the real rent, assessments for churches and manses, has there been any question raised as to whether deductions might be allowed in getting at the real rent with reference to house property, or any other?—I am not aware of any case in which that question has been

been raised for judgment, and I understand that in point of practice the heritors generally agree among themselves as to the rate of assessment which is to be laid on. It does not often occur that the proposition of assessment is made a matter of judgment in court. The question has often occurred, whether a church was to be re-repaired or not, but in so far as the principle of assessment goes, I am not aware of any case in which that point has been raised for decision.

148. Looking to the different statutes by which the erection of churches on the one hand, and the support of the poor on the other, provided for, does it appear to you that the same discretion which they might exercise in regard to the poor is excluded in regard to churches and manses?—I do not think it is; I think the discretionary power of the heritors as a local board for the management and maintenance of churches and manses are very large.

149. So that they might make these deductions?—I think there is nothing excluding them from doing so.

150. Mr. *Blackburn.*] That is if they all agree to it. Supposing one dissented and appealed to the law, could it be carried out?—I am not aware of any cases in which that has been decided.

151. Sir *James Fergusson.*] It has never been tried I suppose?—I am not aware that the point has ever been raised.

152. Major *Bruce.*] In the case of an assessment where certain deductions are allowed for schoolmasters' salaries, manses, and so forth, how is the deduction got at, in the case of a new church on which a large sum has been expended?—If these deductions were recognised in point of principle, I apprehend in the case where a church was to be rebuilt, they would enter as an element into the question of the respective amounts of assessments to be laid upon the different heritors. I do not know that the occasional occurrence of that assessment would affect the application of the principle of deduction.

153. Mr. *Leslie.*] Is it not as broad as it is long?—Yes. I do not see that it could be affected by the mere circumstance of its being only occasional. I do not see that it would make any difference in principle. If any assessment was laid upon different heritors, contributing to the rebuilding of a church in estimating what the real value of the lands was with a view of assessment, I presume the principle would be applied equally in the case of an occasional recurrence of the assessments as in the case of an annual recurrence. According to the law of Scotland, the obligation of heritors to repair a church is an obligation which applies to them as owners of the land for the time being; it is not a burden attaching to the lands. If the lands are sold, and the heritor to whom they belonged when the assessment was laid on, does not pay, the other heritors cannot come against the purchaser to pay the amount which his predecessor had failed to pay. The charge is personal to the proprietor.

154. Colonel *Pennant.*] What you have said does not affect the answer which you gave to an Honourable Member, that practically, with the exception of the rate for the poor, all the rates upon heritages, upon real property, are levied upon the real rental value of the property without any deductions for repairs, or keeping the structure in a tenantable state?—I wish to answer that question thus. In cases where the Valuation Act, the 17 & 18 Vict. c. 91, applies, and is accepted as the principle upon which the assessments are levied, the Act of Parliament itself prescribes how the annual value is to be ascertained, according to the various decisions which have been pronounced by the court upon the construction to be put upon the clauses of the Valuation Act. Questions have occurred with reference to whether any deductions are to be allowed or not, and as far as I can follow and read those decisions, they really amount to this, that in estimating the annual value of lands and heritages, you are to estimate them according to the annual value, irrespective of deductions. For instance, suppose a proprietor of lands has borrowed money from the Drainage Commissioners, and has let his lands to a tenant who pays 6½ per cent., the amount to be redeemed in 22 years, the courts have held on the construction of this Act, that in estimating what the annual value of the land is, you are to include not only the rent which the tenant pays, but also the 6½ per cent. interest which he pays to his landlord, although that 6½ per cent. goes from the landlord's pocket to the Drainage Commissioners.

155. That does not quite answer the question I intended to put. What I want to know is, whether the valuations of land for all rates, except the poor rate, are not made upon a rental value which does not allow of any deduction the repairs, or other outlay necessary to keep for property in that rental state. Is there, for instance, any greater deduction made for houses or lands, or other description of property, which required a great outlay to keep them up to their tenantable yearly value?—I am not aware that that is so. With reference to all those rates which are to be levied under the Poor Law Act, deductions are to be made in the terms of the statute. The mode in which the local rates of this country are levied, other than the poor rate, is not one in which the principle of regarding the proportional deductions between one description of property and another, with a view of keeping it in existence and keeping it a valuable and profitable subject, is recognised.

156. Mr. *Leslie.*] In fact all county rates such as you have been enumerating are levied on the gross rental?—Yes.

157. Sir *G. Montgomery.*] As stated in the valuation roll?—Yes.

158. *Chairman.*] These matters to which you have referred with reference to deductions on account of drainage money, these decisions have been pronounced in reference to making up the valuation roll?—Yes.

159. Not in reference to laying on particular assessments?—Only with regard to the construction to be put upon the mode of making up the valuation roll under this Valuation Act. The Valuation Act introduces a mode of valuing property. It does not of itself determine how the assessment is to be imposed.

160. Mr. *Leslie.*] During the 22 years, the proprietor is paying taxes upon the percentage which does not go into his pocket, but is paid to the Drainage Commissioners?—Quite so.

161. Major *Bruce.*] I want to understand this: suppose a new church is built, and I am assessed in an amount equal to the whole rent of land that I have in the parish in one year, can I have any deduction for that in the poor rate or anything else?—You are speaking of a landward parish.

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162. Yes.—With your property entered in the cess books.

163. Yes.—Well, the extent of the valued sum entered against your lands would, as I understand it, represent the extreme amount of valuation for assessment on which you can be rated.

164. By the building of this church I am assessed to this extent?—I should think it must be a very unusual occurrence.

165. It never did occur to me but once to that extent?—It would almost imply that there was no heritor in the parish but yourself.

166. I was one only of five or six?—I do not know of any principle upon which, in the case of assessment for a church or a manse the deductions could be made. I do not know of any case which has occurred to raise the question.

167. Then it would appear that land may be subject to some very heavy assessments for which it has no deduction, and which may possibly swallow up the whole rental of the year?—It is quite possible if the annual rent of a parish is very small compared with the amount of population, and the church accommodation required to meet that population; but I should think it must be a very rare occurrence.

168. Undoubtedly, but where these assessments, in almost all cases amount to a considerable sum, where the churches are largely repaired or newly built, is there no allowance made; is that burden peculiar to land in landward parishes from which heritages in mixed parishes are entirely exempt?—I wish only to say, that so far as I am aware, no case has been decided which determines the question. I should not like to express my confident opinion upon a matter which has never received, so far as I know, judicial consideration; but I do not know of any principle upon which deductions, such as you referred to, could be made consistently with the law.

169. In that case it is a burden which does come upon the land, and from which other species of heritage are exempt?—It comes upon the proprietor of the land in consequence of his ownership of it.

170. *Chairman.*] The next rate is that for burial grounds?—That is under the 26th section of the 18 & 19 Vict. c. 68, which assimilates the principle of assessment to that in existence applicable to the Poor Law.

171. Mr. *Blackburn.*] That is valuing on the nett instead of the gross?—Yes.

172. *Chairman.*] Look to the deduction authorised by the Act of 1845; would you read them again, and say whether such a rate as Major Bruce referred to falls, or does not fall, under them?—In looking at the 37th section, I do not infer that it would justify a deduction being made in reference to an assessment proposed for building a church.

173. The rates and taxes there mentioned, do not include a rate for building a church?—No; as I understand it.

174. Mr. *Blackburn.*] I should like to ask a question with reference to the Valuation Act. I believe the rent to be taken is that at which the land is actually let, if the period does not exceed a certain number of years?—Twenty-one years.

175. But supposing the landlord contracts with his tenant that he will keep the place in repair, the tenant paying a larger rent, will the assessment fall upon the larger rent, from the landlord having to lay out money to keep up the fences, the house, and so forth?—I understand that the annual value from year to year, the *bonâ fide* rent, is to be considered that which the tenant pays for the use of the subject, not undertaking any other obligations with reference to its preservation, or with reference to its repair, than he is bound to do at common law. Wherever that matter enters as a special stipulation, it affects what the *bonâ fide* rent is in estimating the annual value of the subject.

176. Does the clause say so?—The clause is this: that in estimating the yearly value of lands and heritages under this Act, the same shall be taken to be the rent at which, one year with another, such lands and heritages might in their actual state be reasonably expected to let from year to year.

177. That is supposing they are not let; but how is it where they are let?—The clause states: "And where such lands and heritages consist of woods, copse, or underwood, the yearly value of the same shall be taken to be the rent at which such lands and heritages might, in their natural state, be reasonably expected to let from year to year, as pasture or grazing lands; and where such land heritages are *bonâ fide* let for a yearly rent, conditioned as the fair annual value thereof, without grassum or consideration other than the rent, such rent shall be deemed and taken to be the yearly rent or value of such lands and heritages in terms of this Act." Now, under the expression "grassum, or consideration other than the rent," I would understand that the valuators could take into consideration the terms of the lease, as between the landlord and tenant, with reference to any special stipulations with regard to the preservation of the subject, or its improvement, so as to make that an element in estimating what the *bonâ fide* annual rent of the subject was.

178. Suppose the rents are 200 *l.* a-year, but the landlord undertakes to pay half the expense of maintaining the fences—say 10 *l.* a-year, then they will only value the farm at 190 *l.*?—I do not know that they would do that, but if the arrangements were the other way,—if the undertaking on the part of the tenant was one which was, in point of fact, paying money out of his pocket, for the purpose of improving or preserving the estate, in a way which he was not bound to do at Common Law, in his relationship as tenant, then I should understand that that would be a "consideration," and would enter as an element into the determining of what the amount of rent was; because, to that extent, the landlord is really getting his estate improved; his estate is really becoming more valuable to him by this payment.

179. With regard to the parochial schoolmaster, I believe one half of the amount is, by law, leviable upon the tenant, but practically most people pay the whole stipend themselves, so that the result is that everybody is liable to pay upon more than he actually gets?—If the schoolmaster's assessment is to be levied, and in estimating the amount of value for the purpose of assessing, the rules of valuation under this Valuation Act are to be adopted, then, perhaps, that might be the result; but if I am right in supposing that this Valuation Act does not apply to the case of assessments laid on for the schoolmaster's salary, in consequence of that being leviable according to the valued rent, then the difficulty

difficulty that you suggest would not occur, because there is no right of recourse in any of these assessments against the tenants. The schoolmaster's is the only instance of it.

180. Suppose the tenant's proportion was 5 *l.* on a 200 *l.* rent; you let the farm and undertake to pay the whole, and so practically only get 190 *l.*; have you not the possibility of lowering or raising the rates by the mode in which you let your ground under the wording of that clause?—It is perfectly possible, under the wording of the clause, that the mode in which the subject is let would tell one way or another, with reference to the amount of its valuation. I do not think that is at all impossible, but I think the court would be inclined, in giving effect to this Valuation Act to give effect to the expression "Grassum, or consideration," beyond the mere question of paying an actual sum of money. I should think it would also consider the expression "consideration" as one which was to be looked at in estimating what the *bonâ fide* rent of the lands actually was.

181. Mr. *Leslie.*] The land will only bear a certain charge, and what does it matter whether so much is considered rent, and so much under any other name; does it not come to the same thing?—Practically, the result may not be of much practical importance. It has been decided under this Lands Valuation Act, that where a tenant, either under an agreement in the lease, or by a stipulation afterwards, entered into, agrees to pay so much interest upon a sum of money for improvements laid out by the landlord, that amount of interest is to be included in the amount of rent.

182. In the roll?—In the roll; and in the same way with reference to permanent improvements, the interest which is payable upon a sum of money, laid out by the landlord in permanently improving the estate, is also to be estimated in calculating the value.

183. Colonel *Pennant.*] In fact, that is the mode of arriving at the improved value?—Yes.

184. Major *Bruce.*] Take the case of a farm let for 200 *l.* a year, the tenent taking it on the condition that the landlord lays out 1,500 *l.* or 2,000 *l.* in improvements, is there then no deduction made to the landlord; does he pay on the gross rent without any deduction for interest on the money he has laid out?——

185. Mr. *Blackburn.*] A landlord may let a piece of land for 250 *l.* a year, and pay 2,000 *l.* or 1,500 *l.*, or he may let it at a lower rent, the tenant paying for the improvements himself; would not the tendency of the law be to induce the landlord to let at a lower rent, the tenant finding the money, rather than lay out the money himself and pay upon more than he would get?—That may be the effect. Suppose a tenant expends 1,000 *l.* in improving the land, I think it is very possible that the view that would be taken of the working of the valuation roll in a case of this kind would be, that the value of that sum of money, the annual interest of it, would represent, along with whatever rent was paid, the value of the piece of ground, because there can be no doubt that to the extent of 1,000 *l.*, he is improving the estate and increasing the value of the property.

186. Suppose it was left to the tenant to do it, the landlord knowing well that he would lay out the money, but there being no obligation?—Although there was not a stipulation in the lease, if it was in point of fact an arrangement or agreement between them, I should understand that the court would construe that as a consideration on which the tenant held the property.

187. *Chairman.*] Was not that one of the cases before the Judges lately (I think it came from Kircudbrightshire), where there was an understanding merely, not reduced to writing?—I think so. I am not certain whether it was a mere understanding, or some sort of written arrangement. Certainly it was a case where it was not made a stipulation in the lease, but was a matter of arrangement between them.

188. Sir *J. Ogilvy.*] And the value was raised accordingly?—Yes.

189. Colonel *Pennant.*] Are the valuations revised periodically?—Yes, every year.

190. If any money is laid out by the landlord or tenant in the improvement of the land, the next year, when the revision takes place, the value of the improvement would be taken into consideration?—Yes.

191. The valuation does not depend upon the actual value of the land in the state in which it is, but upon the rent that a man pays?—That is the mode of estimating the value of it in a particular instance, namely, where it is let.

192. Suppose a tenant to be in occupation, there is no actual valuation put upon the land, according to the real intrinsic value for occupation, but the rent paid by the tenant is the basis?—That is the basis upon which this valuation proceeds. The test of the valuation of the land is the annual *bonâ fide* rent which, from year to year, it may be expected to let for.

193. Expected to let for?—And is let for, where it is under lease.

194. Suppose there is an improved condition of the land, you do not get anything for that improved condition; there is no additional rate on that account?—You get it in this way: that when that improved condition of the land is produced, under an arrangement or stipulation, in lease, or otherwise, on the part of the landlord or tenant, to lay out a certain sum in improvements, the interest upon that sum so expended would be added in estimating the amount.

195. If it was in the hands of the proprietor, and the proprietor laid out the money, he would get it instantly?—Of course.

196. Colonel *Pennant.*] Can you give any reason why there should be a difference with regard to the making of these valuations, or rather the mode of giving exemptions for repairs in respect of the poor's rate from that of any other rate?—I cannot.

197. You see no reason for that difference in allowing exemptions for repairs, and maintaining property in a tenantable state in the case of poor's rates and other rates?—I do not see, in point of principle, why there should be any difference with regard to deductions between one assessment and another. It may perhaps in some instances be attended with less difficulty or less inconvenience in estimating what the amount of assessment is to be; but in so far as principle is concerned, I do not see why there should be deductions in the one case and none in the other.

198. I understand you that the expenditure for the poor is a parochial expenditure; you have no such thing as union chargeability?—No; the chargeability is essentially parochial.

199. But the other rates being county rates, they do go to a county fund?—In some cases.

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200. Not in all; they go to a county expenditure, do they not?—They do, no doubt.

201. Is there any organization or system by which the county have the fixing of the valuation upon the different parishes; you are aware that in England we have the power of assessing parishes under a county organization, for the purpose of a county rate, as distinguished from the poor's rate; have you any organization of that sort in Scotland?——

202. Mr. *Blackburn.*] There is no parish valuation for county purposes?—There is one valuator for the whole county.

203. *Chairman.*] The deductions are fixed by the parochial board, and these are from the amounts stated in the valuation roll?—Yes.

204. The deductions are fixed by a parochial board, and deducted from the value appearing in the valuation roll?—Precisely.

Mr. JOHN DYKES, called in; and Examined.

Mr. *J. Dykes.*

205. *Chairman.*] YOU are Clerk of Supply of the County of Lanark?—Yes.

206. How long have you been so?—Ten years.

207. As such you have a great charge in the imposition and collecting the various county rates laid on by the Commissioners of Supply?—Yes; they are assessed and collected under my care.

208. What are those rates that are so assessed and collected under your care?—They are the county rates, consisting of the prisons assessment, and along with it the rogue money, also the police assessment of the county; the assessment for registration of voters, &c. Of course, the land tax is also laid on by the Commissioners of Supply, but that is a mere matter of form.

209. The land tax is levied according to the valued rent?—According to the old valued rent.

210. What others do you levy according to old valued rent?—No county rates; there are certain parish rates so levied.

211. The prisons rates are levied partly on valued rent and partly on real rent?—They are levied on real rent; there was a local Act in the county of Lanark, by which they were laid upon the real rent before that became general in Scotland.

212. Then, you have no experience as to the mixed state of matters?—No.

213. When it was so levied from the real rent, that was prior to the Valuation Act?—It was prior to the Valuation Act.

214. How did you ascertain the real rent for the purpose of a county rate?—There were certain assessors appointed for the purpose by the Commissioners of Supply, who made it their duty to obtain, as nearly as they could, information of the rent, where properties were let, and of their annual value.

215. Was there found any difficulty in accomplishing that?—There was not the same accuracy and care that exists now, and there was extreme difficulty found in the case of railways and heritages of that description.

216. No special legal provision existed then for valuing these?—None for railways.

217. What was done in reference to deductions; were any deductions allowed in the prisons' rates, in estimating the real rent?—Till the passing of the Act of 1860, there were deductions allowed from the gross rental in assessing the prisons' rate.

218. How were they fixed?—They were fixed in a loose general way by the county.

219. Were certain per-centages laid down?—Certain per-centages.

220. Have you a note of the per-centages which were then in operation?—The per-centages, after considerable contest and difficulty with the railway companies, were adjusted in this way: to lands and agricultural subjects there was given a deduction of 15 per cent.; to houses and buildings, and other ordinary heritages not agricultural, a deduction of 20 per cent.; and to railway companies and canal companies a deduction of 27½ per cent.; these got a deduction of 10 per cent. more than the average of the other classes.

221. Then, as to that relative deduction of 20 per cent. for houses and 15 per cent. for agricultural subjects; was it established by the Commissioners of Supply, or by what particular body?—It was established by the Commissioners of Supply.

222. At a general meeting?—At a general meeting according to my recollection.

223. You said that it was continued until 1860?—Until 1860.

224. On what account was it given up?—In consequence of the passing of the last Prison's Act. The Commissioners of Supply were of opinion that it was incompetent to give deductions under it.

225. Is that a local or a general Prison Act?—The general Prison Act of 1860.

226. Would you quote the clause of the Act that was held to deprive the Commissioners of the power of giving those deductions?—Clause 36. "Every assessment under this Act shall be levied upon the lands and heritages within the county for which it is imposed, and the burghs situated therein, according to the yearly value of such lands and heritages as established by the valuation rolls in force for the year of assessment, under an Act passed in the 17th and 18th year of the reign of Her present Majesty." The former Act contained the power of giving deductions, or rather directions for giving deductions: this did not.

227. Was it not considered that the clause 41 in the Valuation Act preserved the power?—The 41st clause provides, that "Nothing contained in this Act shall alter or affect any classification, or power of classification, or any deduction or allowances, or power of making deductions or allowances from gross rental, made or possessed by any body."

228. Did the Commissioners consider that that Act deprived them of the power of making a classification?—They did not so consider, and they continued, after the passing of the Valuation Act, to make deductions, the Prisons' Act of 1839 authorising and requiring deductions. But when that Act was repealed by the Act of 1860, which directed assessments to be levied upon the annual value, as fixed by the valuation roll, without any power or direction to give deductions,

tions, they considered that these clauses, saving the powers of an Act which was repealed, did not apply.

229. Were there any other county rates levied on the real rent prior to the Valuation Act?—Yes; there was the assessment for weights and measures expenses.

230. What valuation was taken?—The same as for the present prisons assessment.

231. In 1860, also, did they abandon the deductions?—There is now no assessment for weights and measures in Lanarkshire, the duty being performed by police. There is rather a sum in hand from it.

232. Prior to the Valuation Act all the other county rates, excepting the two you mentioned, were levied according to the valued rent?—There was a Local Act, the date of which I cannot give, which was passed about 25 years ago, and was obtained for assessing the county rates generally upon the real rent.

233. A special Local Lanarkshire Act?—Yes.

234. Mr. *Mackie.*] I think you said only the land tax was laid upon the valued rent?—Of the county rates, only the land tax upon the old valued rent.

235. *Chairman.*] What is the total valuation of your county?—The total valuation of the landward part of the county, exclusive of the boroughs, is 1,198,025 *l.* for the current year.

236. Have you a note of total the valued rent of the county?—I have not with me.

237. Mention the per-centage of some of the principal rates now levied?—According to the estimate which I have been able to form from the best information at my disposal, the rates applicable to land and agricultural subjects may be considered to bear about the following proportions to the rental:—the owners' poor rate, I think, about 2¾ per cent.; the rates for prisons, police, rogue money, registration of voters (the county rates, in short) about 1 per cent. Then there are certain burdens which are substantially peculiar to land and agricultural subjects, such as the minister's stipend, which may average about 3 per cent., in many cases it is more, and in many less; in fact, in some properties there is a right of relief, an entire right of relief against other properties for the minister's stipend. There are great differences in individual cases.

238. Sir *James Fergusson.*] Is that on account of the tenure of the property?—Yes. Then there are schoolmasters' salary, about ½ per cent.; heritors' assessments for churches, manses, schoolhouses, and so on, about 1 per cent.; land tax about ½ per cent. Then, farm buildings' insurance may be about ¾ per cent.

239. Major *Cumming Bruce.*] Militia buildings and so on?—There is no militia stores assessment in Lanarkshire at present; there was an assessment for two or three years. These burdens I have mentioned amount to about 9½ per cent., 5 per cent. of which, I think, is substantially peculiar to land and agricultural subjects.

240. *Chairman.*] Had you a Local Statute Labour Act in Lanarkshire?—Yes.

241. How were rates leviable; according to the real rent or the valued rent?—According to neither; according to the old divisions of land by plough gates; they are payable by tenants and occupiers of lands, and something by householders—an equivalent of two day's labour, generally converted to about 3*s.* 6*d.* or 4*s.*

242. Nothing directly on the land?—The great bulk of it is upon occupiers of land.

243. Nothing on the owners?—Nothing on the owners, unless when they are also occupiers.

244. Mr. *Blackburn.*] Do you include lunatic asylums in that?—We have none. The expense of buildings, fences, and general up-keep of landed properties may be about 13 per cent. and upwards.

245. *Chairman.*] That is your estimate of the burdens that lie upon the land?—Upon the land and agricultural subjects, coming to about 23 per cent. There are all sorts of differences among individual cases; very great differences. In some cases of moorland farms, where there is not much required in the way of building, and considerable rents received, and of course there is not so large a per-centage for repairs or new buildings, or fencing; and then, in lowland farms, particularly in the richer parts of the country, farm steadings are expensive, and there is also a good deal of fencing. The factor of an estate, about the largest in Lanarkshire, tells me (he made out a statement at my request), that the expense of up-keep of houses and fences comes to about 30 per cent. of the land rental. That is, however, a little exceptional, owing to deer parks being included.

246. If you were resuming the practice of giving deductions on your rates, as formerly, you think the deductions you have mentioned, 15, 20, and 27½ per cent. from the different classes of property would be perfectly fair and reasonable proportions?—As I mentioned before, when the rates of deduction were fixed at those sums, it was by arrangement with the railway companies, and there was a sense entertained generally at the time that there was too great a difference amongst them; that land and agricultural property received too small a deduction. In fact, according to my estimate, if there were to be a division into three classes of heritages there would be no very great difference amongst the different sorts; that is to say, if one class consisted of railway and canal companies, another of agricultural properties, and another of houses and other heritages. What the railway and canal companies claimed in 1856 was a deduction of 25 per cent. as what they expended under the various heads described in the Prisons' Act then in force; and I think that the proper deductions under the same heads to land and agricultural subjects would be very nearly the same; and to buildings and structural heritages would be also very nearly the same; in fact, in some parishes I know that under the Poor Law they give a deduction of 20 per cent. all round to everybody, and raise the assessment, which is equivalent to no deduction at all, only ratepayers have the satisfaction of supposing they pay upon less than their rental.

247. Mr. *Blackburn.*] Upon the question of rates of deduction, you have mentioned that moorland had not nearly the same deduction as arable ground, taking Lanarkshire as a rule; that the per-centage was much heavier upon better land than upon poor land?—Yes, I believe so, from conversations with the assessors.

248. Do you think it just to classify land together, and give one equal deduction all over; or should you not examine each case, and give a deduction according to the circumstances of that particular case?—The latter is the only way of attaining anything like equity, it appears to me; but at the same time, I think it is perfectly impracticable.

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practicable. There are about 30,000 items of heritages in the valuation roll of the county, and if you come to consider individual cases, old houses, new houses, middle-aged houses, farms in all sorts of situations, if the assessor is to do that, it would treble or quadruple his present labour, and would not give satisfaction. At the present time there are not 50 appeals out of all these entries, and if he had to do that work in addition, I think there would be a great amount of confusion and dissatisfaction.

249. I presume after the first year there would be no material change. If you settled that this property required 10 per cent. or 15 per cent., or whatever amount it was, there would be no change from year to year afterwards. Once settled, it would stand a good many years?—That might or might not be, according to circumstances.

250. Taking a farm, for instance, is it not reasonable to suppose that there would be no great change in the annual average in the course of 10 years?—Very likely there would not.

251. So that you have only the first establishing the net valuation which would be troublesome; after that, it would go on smoothly?—There would be much more difficulty in the case of houses and other heritages of that description, which make perhaps 60 per cent. of the whole of the valuation.

252. They do not vary from year to year. Here is a new house that will not require repair for 25 years; that will stand as it is. An old house, coming tumbling down in five years, requires a great deal of repairs; that would stand as it is for five years, if it stood as long?—You would not satisfy the owners that they were getting justice.

253. Surely it will satisfy them more if they get a deduction somewhat more in proportion to the real state of the property, than by a mere classification which does justice to nobody?—It appears to me there would be jealousies and differences between neighbouring owners. Supposing there was a house 10 years older than mine on one side, and it should not be so well built, the assessor might give a larger deduction to him for repairs. This would create grumbling and dissatisfaction.

254. Suppose you were the possessor of an old house which required a great deal of repair, would you not think it hard to pay the same rate as the man with a new house, requiring no repairs at all. Would not the present law give dissatisfaction, just as much as the new one, and with more justice?—There is no dissatisfaction expressed at present.

255. Major *Cumming Bruce.*] You think whoever assessed the deductions would be liable to charges of favouritism by parties who might think they were unjustly used?—No doubt of it.

256. Does it occur to you that it is possible that the deduction for different kinds of property could be specified in any Act of Parliament passed to amend the present mode of valuation?—No, I do not think it could be done equitably.

257. If it could be done, that would be perhaps the most satisfactory way of doing it; it would relieve the assessor from the constant appeals and jealousies to which he might be subject?—Then it would not attain the end of equity.

258. Colonel *Douglas Pennant.*] You have these deductions in regard to the poor rate at present, according to law?—Yes.

259. Would there be any additional difficulty in carrying out the same system with regard to all the other rates?—The assessor has nothing to do with it; it is fixed by a general classification; and when the gross rental was reached for county rates in 1860, after the passing of the Police and Prisons' Acts, the idea was that it was a great improvement.

260. With regard to the difficulty: if you have those deductions allowed by the statute in regard to the poor rate, would there be any additional difficulty in carrying out the same thing with regard to other rates?—There would not be any material difficulty in carrying out a system of classification. The objection is, it is not equitable. It is not possible to devise a system of classification in which the heritages in the class would be all of the same description, and entitled to the same deductions.

261. By the statute, with regard to the poor rate, the deductions are such as will enable a sufficient allowance to be made from the gross rental to enable that property to be kept up to a tenantable state, that is the basis upon which the deductions are allowed in the poor rate. Could not that be carried out without difficulty with regard to other rates?—Yes; but that classification is adopted simply to satisfy the statute, and it does not attain the object which you contemplate, that of allowing to each heritage a sufficient sum to keep it in repair, because it is to one heritage too much, and to another vastly too little.

262. You are aware that that same system is entered upon in England?—I do not know.

263. That in England the rateable value of the property, as compared with the rental value, is precisely upon the basis laid down in regard to the poor rate in that Act of Parliament?—I do not know what is the English system.

264. Mr. *Blackburn.*] In practice when a railway company, for instance, or a large proprietor, used to dispute the amount, the parties would go to law and have it settled, or else come to some compromise as to terms; was not that the way in which it was practically carried out?—Yes.

265. Each case settled on its own merits?—That was the way in which the classification that I mention was arranged.

266. Did all the railways agree to the same classification, or did not some get higher rates and others lower, according to their demands and statements?—All the same. There was a meeting of representatives; a committee of the county was appointed, and they got the matter arranged, so that they all agreed to the same rate.

267. Mr. *Leslie.*] What was that?—Twenty-seven and a half per cent.

268. Sir *John Ogilvy.*] No recognised principle, merely by agreement?—There was no principle.

269. Sir *G. Montgomery.*] Will you tell me whether, in the event of its being decided that you are to have the net rateable value instead of the gross value, whether you think that it would give most satisfaction that this assessor should investigate if the deductions were made in every particular species of property, or that he should first of all divide the property into particular classes, and then allow certain per-centages on each class?—Of these two ways the system of classification is decidedly that which would produce the least dissatisfaction, because the other would put every man in contrast with his neighbour; his case would

would come to be contrasted with those about him, and produce a great deal of dissatisfaction.

270. You think it would be possible to classify property first into a certain number of classes, and then to allow a certain per-centage to be taken from each; that would give satisfaction to the ratepayers?—It would be a possible thing to classify in this way. At the same time I do not think it would attain the end of being equitable, owing to the great difference between individual cases of the same class.

271. To be equitable it would be necessary for the assessor to go into each particular case?—Yes.

272. Mr. *Smollett.*] Is it your opinion that the poor's rates should be levied on the same principle as all other rates?—It is.

273. On the gross?—On the gross.

274. Mr. *Mackie.*] That is the best way of obtaining uniformity?—Yes, since the gross rental was resorted to in the county, there has been no dissatisfaction expressed amongst the owners of the general heritages in the county. I have heard that the railway companies consider they pay too much. If there is any peculiarity in their case, it is possible, in my opinion, to deal with it alone; to reduce their rental if it is over stated.

275. To deal with the railway interest separately?—Separately, if necessary. As regards the other heritages, the owners are making no complaint whatever with the assessment, and it is so very much simpler.

276. There is a good deal of sheep draining going on in the land of Lanarkshire?—Yes.

277. And in consequence of that the annual value of the hill farms is constantly changing?—I am sorry I cannot speak to that of my own knowledge; I believe so.

278. Sir *J. Fergusson.*] If the system of individual valuation would be most equitable, but, as you think, impossible, and if the present system gains uniformity, but is not equitable, would not the best attainable system be that of classification?—In my opinion the deductions to be made, if you classify heritages, would be very much the same to each class; that is to say, to all the classes that have been in use to be formed,—agricultural subjects, buildings, and railways. If such classes as these were to be formed, so far as I can calculate, the deduction which should fairly be given to each class should be very much the same.

279. Mr. *Leslie.*] You mean one uniform deduction?—Yes.

280. Which is equivalent to no deduction at all?—Yes.

281. Mr. *Blackburn.*] If one party is able to spend out of his income 80 per cent., and another cannot spend more than 50, is it fair both should pay the same rate; is not one man a man of 50 *l.* a year, and another of 80 *l.*, and ought they to be rated the same for the county expenditure?—There is an apparent want of equity in that. At the same time is there not a want of equity in assessing in the same way the return from all different classes of heritages? For example, take the case of minerals, which is substantially the price of the soil, payable by instalments; then there is the income from houses and perishable subjects; and there is rental of lands and agricultural subjects, which you may consider to be a permanent heritage, and perhaps a heritage of increasing value. Then there are railways which are nearly permanent heritages, too, if the permanent way is kept renewed and in order.

282. Are not all these in this way, if they are permanent they pay permanently; if they are casual, they pay casually?—If there is capital invested in them, is a certain portion of the return paid by them not fairly to be set to meet the loss of it?

283. In the case of a mine being sold, the parties selling and the parties buying agree to a price, and settle accordingly; but that has nothing to do with it. This being an annual receipt for so many years, it pays the rate in so many years; whereas, if it is perpetual, it pays the rate perpetually?—Yes. There are one or two points, if the attention of the Committee is directed to the Valuation Act generally, and its working, in which it appears to me that working is defective. There is the case of subsets, sub-leases of heritages, which are let for periods, in the case of minerals, of less than 31 years, or of lands less than 21 years. At present it is ruled by the court interpreting the Valuation Act that the only rent that can be looked at of these heritages is the rent payable to the actual proprietor of them, and that you cannot take into account any increase of rental derived from sub-leases by him to third parties. As in the case of a mineral field, let for a period of, say thirty years, at a rent of 500 *l.* a year, and sublet to other parties in distinct divisions at rents amounting to 3,000 *l.* or 4,000 *l.*, according to the principle of interpretation adopted by the court, the only rent that can go into the valuation roll as applicable to those minerals is the original rent of 500 *l.*, that being the *bonâ fide* rent and consideration for which it was let.

284. *Chairman.*] Your suggestion is, that the same principle should be applied to leases under 31 years as is applied to leases over 31 years, and that the mid-tenant should be deemed the owner for the excess of rent he receives beyond what he pays?—Something of that sort. Then there is another thing depending on the same principle, that of land being let for these short periods, and the tenant erecting houses or buildings upon it. At present these buildings cannot be entered upon the valuation roll.

285. Until his lease is out?—Until his lease is out, so that there is a loss of the assessment of their annual rent.

286. That is provided he has not agreed to build them as part of his arrangement?—Yes, of course.

287. Mr. *Blackburn.*] The result of that is, there is no difficulty in considering each individual case to add to its rateable value; but it is impossible to make deductions in individual cases. You have no objection to raising the rate, and inquiring what a man has done to improve his ground for this year, but you think it is impossible to inquire into what he has paid and reduce his rate in the same proportion?—I think not. What I mean is the case of a new heritage being created as it were.

288. Improvement being made?—Not an improvement made, because a tenant may improve land by putting on the land lime or manures, and making it worth more. I would not have that added. But in the case of a new heritage being erected upon it, such as a house or houses as is often done in connection with mineral workings, I would have that entered in the valuation roll,

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and have the person in the receipt of the rent of it entered as the owner of it.

289. Supposing we will not call it a new house, but there is a large expenditure in drainage. The tenant has, at his own risk and money, gone into it. It might be a main drainage, or the cutting out of a new course for a river or tile draining. Would you inquire into that, and charge an extra rate upon the improvement?—No, that is not a fresh heritage.

290. Sir *J. Fergusson.*] Are you of opinion it would be a beneficial change to have the whole assessment for all purposes levied upon the real rent, and in no case upon the old valued rent?—I think it would.

291. Mr. *Mackie.*] Even the minister's stipend?—No, that must remain as it is; it is a charge upon the teinds. With regard to the land tax, I do not see how it can be laid upon the real rent, because in a great many cases it is redeemed.

Mr. John Burnet, called in; and Examined.

Mr. *J. Burnet.*

292. *Chairman.*] You are Secretary to the Glasgow Water Commissioners?—I am; and in that situation I have had experience of the working of the Valuation Act since it passed in 1854, the Water Commissioners being both a rate-paying and a rate-levying body.

293. Their waterworks extend from Loch Katrine to Glasgow?—Yes, and beyond; over to the Gorbals.

294. The distribution is in Glasgow, and on the south side including the Gorbals?—Yes.

295. The collection is from Loch Katrine, passing through a variety of parishes until it reaches Glasgow?—Yes, from Loch Katrine on the north side of the river Clyde, 34 miles, and from Gorbals reservoir, on the south side, about seven miles more.

296. You have, besides conduits, reservoirs and works of different descriptions?—Precisely.

297. Have you had your works valued by the railway valuator, or valued by each local parish?—We are under the railway and canal assessor.

298. Then he has fixed your cumulo value, and he has adjusted the proportion for each parish, that he thinks is fair?—He does that annually.

299. Will you give us some specimens of the sort of relative valuation put upon your conduits, and the value of the parish through which it passes?—We have no means of ascertaining what part he values; the sum that he puts upon one part, and the sum that he puts upon another. I have brought with me an abstract of the valuation for some years. I observe that in 1861-62 the valuation of the works was 49,684*l.*, the annual value fixed by the assessor; and, in the year 1864-65, the amount is 64,503*l.* So that in the course of that short time the valuation is increased about 15,000*l.*, without corresponding increase of works.

300. How is the amount allocated among the different parishes or counties through which the works pass?—The assessor values on a mileage system in the same way that he values railways.

301. He takes the simple rule of a mileage system?—Yes, as I understand it.

302. Does he account a mile of a mere conduit passing through a moorland parish near Loch Katrine as of the same value as a mile in the City of Glasgow?—Precisely the same, I believe.

303. Is the mileage calculated on the main drain when you reach the town, or is it the mere distance?—It is calculated on the main pipes in the streets, and all the way out to Loch Katrine, extending from Glasgow about 34 miles, and through Gorbals about seven miles farther.

304. Is the ramification of pipes throughout the City of Glasgow taken into view in allocating?—Yes, as applicable to Glasgow.

305. I thought you said that the assessor took the cumulo sum, and then allocated that sum according to the mileage?—Exactly; and that mileage he calculated by the main pipes, taking the main pipes in the City of Glasgow as well.

306. In that way he makes no account of all the great ramifications, as giving a larger share of value to the City of Glasgow than in the case of some moorland parish; he makes no account of them?—There are mains in each street.

307. You do not call the main drain merely the great central conduit?—Some of the mains in Glasgow streets are as large as the mains extending out to Loch Katrine.

308. Then the mileage includes really every street in Glasgow?—Yes.

309. Major *Bruce.*] There is not a main drain in every street in Glasgow?—There is a main pipe in every street; they are smaller in the lesser streets.

310. They are counted the same as the large?—The service or distribution pipes that convey water into the houses are not counted, but the mains in all the streets, small or large, are counted in the mileage.

311. Mr. *Blackburn.*] The distribution pipes belong to the houses, do they not?—Yes, the pipes from the mains to the houses are supplied by the proprietors.

312. Sir *G. Montgomery.*] The assessor applies the same principle to the pipes as to a railway. That is, he charges the same for a pipe running through a ridge of mountains at Loch Katrine, 600 feet under the surface, as he does to a mile of railway?—Yes, in apportioning the cumulo value among the parishes.

313. *Chairman.*] Take one of the parishes near Loch Katrine?—There is the case of the parish of Aberfoyle; the Duke of Montrose is the proprietor of the whole parish, and yet in point of valuation we are by the present erroneous system of valuing made to appear larger heritors than the duke.

314. What is the valuation of that parish in the valuation roll of the county?—I have not at present with me the valuation of Perthshire.

315. The particular parish I mean, can you give that?—No, I cannot.

316. How much are you rated on in that parish; what is the amount on which you are valued?—I think in 1862-63 the valuation of the waterworks there was 5,250*l.*

317. Do you know the rental of the Duke of Montrose, the proprietor of the parish?—I am not prepared to give it.

318. Do you know that yours is beyond that?—Yes; so that we pay, in fact, more poor rates than the Duke of Montrose does; and this occurs more or less in other parishes.

319. What area do you actually occupy in the whole

whole of the parish?—It is not a large area, it includes the mountain.

320. I mean the area of your conduit; does it come on the surface at all?—No, it is a tunnel eight feet square, running through the mountain, and it is only the stripe of ground for the tunnel we can be said to occupy.

321. No part of it is above ground at all?—No part of it is above ground, all the way along the hill side, towards Glasgow; it is either a tunnel, built conduit, or a pipe.

322. And generally under the surface?—Generally under the surface.

323. And not destroying the other use of the land?—Not in the least; the conduit is always covered and the land resoiled.

324. Where you have reservoirs is there any special assessment put upon them?—The valuator puts a value upon reservoirs in the same way that he does upon the stations of railways, as I believe, but I have no means of accurate knowledge on this point.

325. It does not fall within the mileage rule?—No, it does not. It is the same principle as is applied in valuing stations in particular localities.

326. Colonel *Pennant.*] Is the valuation of a station allocated to the particular parish in the way of contribution to the rates?—Yes, I believe it is.

327. Not spread over the whole?—Not spread over the whole.

328. *Chairman.*] There is a separate assessment in the parish for the reservoir, and then, according to the mileage, there is an allocation of the general cumulo?—An apportionment of the cumulo value made at the discretion of the assessor according to which assessments are charged in each parish.

329. Major *Bruce.*] You do not take into account the increased value of the ground in which the pipes are laid; it is assessed at the same rate all over, the property in Glasgow being very much more valuable than the other?—It is the same in regard to the apportionment.

330. Therefore Glasgow is under-assessed and the other over-assessed?—Exactly; it is so under the present erroneous system; the valuation does not proceed upon the structural value at all; the valuator ascertains the gross revenue from the sale and delivery of water in the city, then he ascertains what our expenditure is for the year, then he allows a further deduction of 15 per cent. for what he calls tenants' profits, the balance he holds to be what a tenant would pay, and from this infers the cumulo value upon which we are chargeable with rates, which is apportioned in the way I have stated.

331. *Chairman.*] Under the Valuation Act it is optional in you to apply to have your works valued in that way?—It is optional to water and gas companies, not statutory commissioners, to apply to have their works valued by the railway and canal assessor.

332. You might have left each parish to assess the portion that passes through it according to their own rules?—Yes.

333. Then it would have been according to the value of the ground you occupy in the parish?—Yes, I believe that the Act does not authorise the mode of valuing adopted by the assessor at all.

334. It directs that a "just proportion" be given to each parish?—Yes; but it is the mode of ascertaining and taxing the cumulo value that waterworks commissioners complain of. There is a mode of valuing pointed out with regard to houses, shops, and counting-houses in the 6th section of the Valuation Act. Then there is a mode of valuing with reference to railways and canals in the 20th and 21st sections; but there is no mode of valuing pointed out with reference to gas and waterworks, and I think there ought to be a special direction given in the Act that is to pass for the valuation of gas and waterworks.

335. What are the hardships you complain of, and the remedies you would like to see introduced?—The chief hardship I complain of is being charged, under the present valuation system, for water merely running through the bowels of the earth until it comes to Glasgow, though the land is restored and remains available to the owner and is a part of the assessable area upon which the owner is charged, and for water running under roads and streets which are not private property. The roads and streets are not valued for rating purposes, although producing revenue alike with waterworks; and it is difficult to understand how water or gas pipes lying in them should be valued for such purposes.

336. Would you not avoid that assessment if you did not go to the railway assessor?—No, it is the very same thing; county and burgh assessors adopt the same mode of valuing.

337. Suppose you did not apply to have your works valued as a whole, but left each parish to value the part which passed through it, would the heritors of Aberfoyle be entitled to rate you for anything more than the amount you are supposed to occupy in the bowels of the parish?—The only difference would be that the valuation roll would be made up by the county assessor instead of the railway and canal assessor.

338. The statute gives authority for that mode?—Not in reference to waterworks.

339. If you will look at the Valuation Act you will see that there is a clause allowing you to apply; it does not force it upon you; it gives you the privilege of applying to the railway valuator to value your works in the same way as he values railways; I understand you have applied to him, and that he has done it on your own application?—We did not understand that he was to value erroneously, and we think there is no authority for such a valuation. The application made to him was not to value as he valued railways, but simply to value.

340. Supposing he has valued it correctly, he would still have to take the mileage rule; although he had valued at 50 per cent. less, it would still have given these moorland parishes the privileges of assessing you on a proportion of the whole profit?—This, I respectfully submit, does not follow. It is to estimate lands and heritages, not to ascertain profits, that the assessor is appointed. You will observe there is nothing about mileage in the Act of Parliament.

341. It is a "just proportion," and I understand that in the exercise of his discretion in fixing the just proportion he has taken the mileage?—He takes this mode of doing it for his own ease, I fancy; but it should be borne in mind that the mileage system is adopted only for the purposes of apportionment only among the parishes. It is the mode of fixing the cumulo value that I complain of.

342. You were telling us the objections?—What the Commissioners think on this matter is, that the underground works, these conduit

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pipes in the ground ought not to be taken into view in coming to the cumulo valuation, and that there ought only to be a structural valuation, as we call it; that is a valuation of reservoirs, and any buildings upon the surface of the ground. In regard to anything else we are not proprietors; we obtain only a way leave from the different owners through whose fields we pass, and permission from trustees on roads and streets to lay pipes.

343. You pay for that way leave?—Yes, to proprietors of land, but nothing to road trustees.

344. How much do you pay through Aberfoyle parish?—I am not prepared to say; it is the sum fixed by agreement, or by valuators under the Lands Valuation Act.

345. You consider the sum you pay is a fair return for what you occupy?—Precisely; we give fair compensation to land owners.

346. And if you were rated on what you pay the proprietors, you would be quite satisfied?—Quite satisfied to pay upon all the reservoirs and buildings, just in the same way as in our Water Act the railway and canal companies have a clause to that effect; so that other parties have got exemption to that extent while we remain burthened to the whole extent. I will read the clause in the Act; "Provided always, that no public water rate shall be assessed or levied on or from any railway company or canal company for or in respect of the line of railway or canal belonging to such company, but such rate shall be assessed and levied on and from such companies in respect of all stations, depôts, and buildings belonging to them respectively." Now we would be quite pleased to have a proviso to that effect.

347. Mr. *Blackburn.*] Do not railways drink a great deal of water?—I cannot say as to their drinking.

348. And they pay rates for it as parties who are in the habit of using water?—We have a rate for the supply of water, which is according to agreement, and we have a rate on real property, independently of water supply, given to us for sanitary purposes, that is the public water rate; and when the Act passed the railway companies appeared before the Committee and got this proviso introduced; I do not know whether the Committee are aware that in the last Public Improvement and Police Act there was also an express exemption introduced there as to the underground works of water and gas companies.

349. Sir *J. Ogilvy.*] Charged one-fourth?—Yes, the clause gives an exemption to that extent to all underground gas and water pipes, or underground works of any gas or water company. Either of these, that is the direction given as to valuing railways and canals in the Glasgow Water Act, or the direction as to water and gas companies in the Public Police and Improvement Act 1862, would, I believe, please the Commissioners; either the one-fourth, or a valuation of the reservoirs and buildings, leaving out the mere water-run.

350. *Chairman.*] You wish this exemption or rule to be extended to pipes you occupy under the streets of Glasgow equally with those in the country?—Yes.

351. And if you have any surface run at all you would have the value of the ground estimated?—Yes; but we have no surface run; every thing is covered except the reservoirs.

352. Is there any other matter to which you would like to refer; would you state what relief you would like to have?—I may mention also that there are a number of precedents in English and Scotch Acts to the same effect, from the year 1848 downwards.

353. Private Acts?—Railways have been continually getting such relief. It first occurred in a Public Health Act in 1848, and from that time downwards railways have been constantly applying for and getting this one-fourth rate. We think that it is hard to subject us, who are really supplying water for the public benefit, and may be placed in the same category almost as infirmaries, or hospitals, or police buildings, or any of these things.

354. You are not a company drawing profit?—Not one farthing.

355. It is the corporation?—Yes; it is a public trust.

356. In the event of their rates amounting to a certain sum, are you obliged to reduce the charge?—In the event of a surplus, we apply it to the reduction of the rates in the succeeding year. We are bound to do it by Act of Parliament. No private individual derives advantage of any kind from it.

357. You are only entitled to levy as much as will keep up and maintain in efficiency your works?—Precisely.

358. Colonel *Pennant.*] It is a corporation work?—Entirely.

359. Major *Bruce.*] There is no individual profit; no gain whatever?—If there be a surplus, it goes to the reduction of rates in the succeeding year. No individual has any advantage.

360. Mr. *Blackburn.*] You are paying poor rates upon property somewhere, and the question is, whether you should pay them in the parishes through which you pass, or all in Glasgow, is it not?—That has never been a question.

361. It would be so. If the property is worth 60,000*l.* a year, if you did not pay in one parish you would pay it in some other parish; it is property which is liable to poor rates in some place?—We pay poor rates all over. We do not raise any question as to the mode of apportioning, which is a secondary question. Our objection is to the mode of valuing for fixing the cumulo value.

362. You object to pay in Aberfoyle upon the sum of 5,000*l.*, according to the mileage proportion, but you do not object in Glasgow?—No; we do object, and would be otherwise valued in Glasgow as well as in other parishes.

363. You must be valued either at the place where you reside, which is Glasgow, or the place through which your property passes? — We would only pay upon the lands and heritages within the city the same as in other parishes.

364. But if your lands and heritages produce more profit in the city, because you do not pay rates in Aberfoyle you would be rated at a higher amount in the city? — This is not an inquiry as to profits, but only as to the valuation of lands and heritages. We object to the proceeds of the sale of water being made criteria for the value of lands and heritages in any parish.

365. Because, in fact, your property in Aberfoyle is not rated separately; but suppose you gave up your privilege, you would then be required to pay in the city?—We are rated separately in every parish.

366. By so much as you reduce the amount in

in Aberfoyle, you raise the value in the city?—Yes, of course, if you follow the erroneous mode of valuing by the annual revenue.

367. And the result would be that you would pay a larger sum in Glasgow and less in Aberfoyle. Then I want to ask you, is the poor rate heavier in Aberfoyle, or in Glasgow?—I should think a great deal less in Aberfoyle.

368. Then, perhaps, you would prefer to remain under the present system, and pay in Aberfoyle, to paying a heavier rate in Glasgow?—You will understand, we do not want to pay upon pipes in the streets of Glasgow any more than in Aberfoyle.

369. Then, you want to be excused; having property worth 60,000 *l.*, you think you ought not to pay poor rates like other people, but upon some exceptional principle?—Upon all buildings and reservoirs upon the surface, but we object to pay upon pipes running through the bowels of the earth, or under the public streets.

370. Upon the same ground would you except railway lines running on the surface?—We think we are not in the same position as railways, which occupy the surface, and do not require the same extent of land either on or below the surface.

371. If it is worth the money, is not a coal-pit as liable to pay as a garden?—Surely.

372. Being under ground is no reason, if the property is valuable, why it should not pay?—That is the question, whether it is a right and reasonable thing to value, as a subject of assessment, a mere water stream.

373. Major *Bruce.*] In the case of a colliery where it is necessary to have a main level drainage, the surface may not be disturbed, but there is an annual payment required. You do not get the good of your works, if you do not acquire that intermediate power of carrying water under ground?—I am aware that minerals are assessed. The question is, whether water or gasworks, in the circumstances stated, ought in fairness to be valued like railways and minerals, with a view to rating purposes.

374. Mr. *Blackburn.*] Surely the net value of the property, what anybody would give to become proprietor of it, is the sum you ought to pay upon, what any person would rent it for, having your power of levying rates?—We cannot be let at all; and mere rates, or the proceeds of the sale of water, are not, in my humble opinion, proper subjects of valuation for assessments.

375, But supposing you were let; supposing a solvent tenant would give 60,000 *l.* a year, should you not pay upon that amount?—I am aware that that is the rule adopted; but whether it is reasonable or not I leave you to determine. I think it is not.

376. Major *Bruce.*] If you were exempted, it would merely enable you to reduce your rates; if the assessment were reduced, you would apply the diminution to a reduction of the rates?—Yes; but it is not exemption we seek, but a statutory direction, on fair and equitable principles, for valuing the lands and heritages of waterworks.

377. Colonel *Pennant.*] The argument as to going under ground would apply whether in the case of a private company or a corporation?—Of course it would.

378. Mr. *Mackie.*] What do you say about an underground railway; the Metropolitan Railway, for instance; should it get off?—That is a matter of private enterprise; and I humbly think that a stream of water running through the land or under public roads or streets is not at all analagous to the case of an underground railway.

379. Sir *G. Montgomery.*] Does the railway assessor, in valuing a railway, take out of his mileage the portion that happens to be in a tunnel in an agricultural parish?—I should think not.

Lunæ, 27° die Martii, 1865.

MEMBERS PRESENT:

Mr. Blackburn.
Major Cumming Bruce.
Mr. Dalglish.
Mr. Dunlop.
Mr. William Leslie.
Mr. Mackie.
Sir Graham Montgomery.
Sir John Ogilvy.
Colonel Douglas Pennant.
Mr. Smollett.

ALEXANDER MURRAY DUNLOP, Esq., IN THE CHAIR.

Mr. ALEXANDER RAMSAY, called in; and Examined.

Mr. *A. Ramsay.* 27 March 1865.

380. *Chairman.*] You are the Manager of the Edinburgh Water Company?—I am.

381. That is a company established by private Act of Parliament, the profits of which are divided among the shareholders?—Yes.

382. Have you any restriction in your Act as to the amount of dividend or as to the rate of water duty you are to charge?—Yes, we are restricted in both; we are restricted to a dividend of six and a-half per cent., and the water duty is restricted by the Act for house purposes to 10*d.* per pound on four-fifths of the rent as assessed to the police tax.

383. Is the assessment for the police tax taken on the valuation roll?—It is taken on the valuation roll, but levied with 20 per cent. off.

384. Is that deduction of 20 per cent. supposed to be for repairs?—The 20 per cent. deducted under the Police Act was understood to be for repairs, insurance, and other expenses.

385. Those especially allowed in the Police Act?—Yes.

386. Then you have one-fourth per cent. after that?—No; you will probably understand it better when I tell you that the nominal water rate is 10*d.* in the pound, but the actual rate is only 8*d.*, or four-fifths.

387. You may go up to 10*d.* if you choose?—We cannot go beyond 8*d.*; we are not entitled to take more than four-fifths of the actual rate as levied for the police tax.

388. That is your mode of taking the four-fifths of the Police rental?—Yes, it is simply 8*d.* in the pound.

389. Mr. *Leslie.*] The actual rate?—The actual rate is only 8*d.*, being four-fifths of 10*d.*

390. *Chairman.*] That is 8*d.* upon the police rental?—No; 10*d.* upon the police rental.

391. You have, I believe, property in various parishes surrounding Edinburgh?—Oh, yes, in a great number, in 14 or 15 parishes.

392. In some of them you have reservoirs and some of them conduits?—In some reservoirs, and in others again we have long tracts of pipe, and other underground works.

393. Are the conduits all underground?—We have very few tunnels; only two or three altogether, I think; but our pipes are all under ground.

394. Are your works valued under the provisions of the Valuation Act?—Under the Valuation Act.

395. By the general assessor of railways?—In the county by the county assessor.

396. Have you not a clause in the Act allowing you to apply to the general assessor?—No, not in our Act.

397. Will you inform us exactly how the valuation is made; what it is. Is it different in different parishes?—It is different in different parishes; but what we object to and think a very serious hardship is this, that after the valuation roll is made up, and the copy of it sent into each parish, the parochial boards cut and carve upon it in a very extraordinary way; and I may mention one parish, that of Colinton, in which they take off 10 per cent. to every one; nothing less than 10 per cent. In other cases again they go up as high as 35 per cent. abatement from the assessment in the valuation roll.

398. In other cases than your works?—We have an abatement of 10 per cent., but there are other classes again who have as much as 35 per cent. Now, to put it on that footing has the effect of increasing our proportion of the rates very heavily.

399. How does the valuator fix the proportionate value of your property in each separate parish?—It is fixed in this way: we give in a statement of the money we have expended in each parish respectively, and of our income, which is then allocated on each parish in proportion to the outlay.

400. You mean the capital?—The capital laid out in each parish, and the valuation is applied in proportion to the sum laid out.

401. What interest on your capital is assumed as the rent?—If you will allow me, I will give you a few of the recent years under the Act. They assess the rental in the valuation roll for 1858-59 at 19,818 *l.*, upon a gross income from water of 26,262 *l.*, or $75\frac{2}{10}$ths of the gross income. That is for the year 1858-59. In the succeeding year, 1859-60, the income was 27,324 *l.*, and the assessed

assessed rental was 19,275 *l.*, or 72$\frac{1}{10}$th per cent. of the gross income. In the year 1860-61 the income was 28,879 *l.*, and the assessable rental 20,037 *l.*, or 69$\frac{3}{10}$ths per cent. upon the gross income. In the following year, 1861-62, the income was 29,739 *l.*, and the assessable rental 21,235 *l.*, or 71$\frac{3}{10}$ths per cent. upon the gross income. The next year again, 1862-63, the income was 30,879 *l.*, and the assessable rental 22,107 *l.*, or 71$\frac{7}{10}$ths per cent. In 1863-64 the income was 32,933 *l.* (I am not giving shillings and odd pence), and the assessable rental 23,274 *l.*, or 70 per cent. of the gross income. The assessable rental for this year is 24,328 *l.*, but our year does not terminate until the 15th May; therefore I cannot tell you what the proportion will be.

402. Then, the county assessor makes a gross estimate of your whole income?—I believe the two or three assessors made an arrangement amongst themselves how it was to be divided, or allocated over the different parishes, after having obtained from us an account of the money we have expended in each parish, and they lay it on accordingly.

403. Then, after that is laid on proportionately to the supposed value of the capital laid out in each parish, is there a further proceeding by the parochial boards to get at your assessable value?—Yes; that is what I may call the absurd part of it, because, under the Poor Law Act of 1845, section 37, it is reserved to the parochial boards to make certain abatements in their discretion; but they exercise their discretion to such an extent, as that, while they give us only 10 per cent. off, they give in other cases as much as 35.

404. Then you rather object to their not exercising it to the extent you wish?—What we object to is, that we are not all on the same footing; besides, other descriptions of property, railways and canals have been successful in one parish that I know of in obtaining abatements to the extent of 35 per cent., while we remain at 10 per cent.

405. Have all the parishes concurred in the same 10 per cent.?—No, they are different; there are scarcely two alike.

406. Will you tell us what the different parishes are; some specimens of them?—In Edinburgh, for example, they assess upon four-fifths of the rent for the police tax. In the parish of Colinton again, they assess with 10 per cent. off. That is the smallest abatement they make; but in some cases, those I have specified, railways, canals, and so on, they take off 35 per cent. We complain of that as a great hardship, and that we are entitled to be put on a footing at least as favourable as either railways or canals, or machinery of any kind.

407. Do they require you to explain to them the amount of outlay you are put to in keeping up the works?—We give an account of that; an account of everything.

408. Do they calculate the outlay in their own parish only, or do they take into view the general outlay on your whole works?—The outlay is made up upon each parish respectively; I mean the outlay from the capital; that is added to the value of the company's property in the parish in which it occurred.

409. The deductions on account of repairs, and the different things mentioned in the Act of 1845, are parochial?—They are parochial.

410. They are not made by the general assessor?—I don't know how far they enter into the valuation of the assessor.

411. What is the highest per-centage you are allowed as deduction by any parish?—Twenty per cent., but we only get the 20 per cent. where it is uniformly given over the parish; but I did not know till very recently that this practice of something very like what may be supposed to be favouritism, although I dare say it is not so intended, was in existence. The receipt for poor's rate was presented, and seeing that the rental was accurately stated, and the calculation per pound of the rate there given was correct, it never entered into my head to suppose that we were put on a worse footing than other people.

412. You would prefer some general rule, or some person authorised generally to make the deduction?—What we think is this, that the Valuation Act to be of any value at all should override the Poor Law Act, and supersede the provisions to which I have referred in that Act, and that all rentals should be taken under that valuation, and any allowances to be made for repairs or maintenance, or whatever it may happen to be, should all be taken into consideration in making up the rental under the Valuation Act.

413. So that the assessor who made up the valuation should make the deductions?—Yes, according to the value. Old ruinous property (take house property as an example), an old ruinous house would require a larger sum to be taken off than a house in very good repair, and so with works, manufactories, and so on.

414. Then are your reservoirs separately assessed?—No, they are not separately assessed; they are all included in the works; where we have land on the surface let to tenants, we pay for that the same as any other property under the Valuation Act.

415. You had some litigation about your liability for the assessment on your underground pipes at all, at one time, had not you?—Yes, we had good authority for supposing that we were not liable for that assessment. We had very strong opinions to that effect from eminent counsel, and operating upon them we refused to pay poor's rates for those works.

416. This was in Edinburgh?—In Edinburgh city. Some law proceedings took place, and it came ultimately to the House of Lords, where it was decided that we were liable to pay on pipes and underground works. There was a difficulty at that time in working out what we should have paid for the previous years. Probably you may have forgotten, but I may remind you, sir, that it was referred to you. I have your award here with me. Perhaps you will allow me to state that the assessable rental you put upon us was 40$\frac{9}{10}$ths per cent. upon the gross income for water. But we have been assessed as high as upwards of 75 per cent., and nothing under 69$\frac{3}{10}$ths. We think that rather a cruel assessment, looking to the way we are restricted in every way, both as being limited as to the rates, limited as to the dividends, and having very heavy risks to incur. I may mention that, supposing the works had been let to a tenant for the years I have been speaking of, the tenant's profit would only have been from 4$\frac{8}{10}$ths to 9$\frac{9}{10}$ths per cent. That was all a tenant could have made if the assessed value had been taken as the rent.

417. Mr. *Blackburn.*] Upon the amount of rent at which it was valued?—Not upon the amount of rent, but, after deducting the working expenses,

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from the gross income for water, his profit for those years, at the lowest, would have been $4\frac{8}{10}$ths, and the highest, $9\frac{9}{10}$ths per cent.

418. Ten per cent. upon what?—Upon the gross income for water.

419. *Chairman.*] Deducting the interest of the capital laid out by him?—No: supposing, in place of the company conducting the concern and keeping it in their own hands, they had let it to a tenant for a rent.

420. What rent?—I am supposing the rent would have been what the assessor puts on, and that rent of the assessor would have left him in one year only 468 *l.*, in the first year I am referring to, and in the highest year, only 921 *l.*, in the series of years that I am speaking of, from 1859 to 1864.

421. Mr. *Blackburn.*] Is that deducting all repairs, or only maintenance?—Deducting all repairs.

422. If you let to a tenant from year to year, the tenant is not bound to do all repairs; he takes it as he finds it, and leaves it so?—That depends upon the terms of the bargain. The expense must be incurred somehow. The works must be maintained, and if they were let for a number of years it would be unavoidable that the tenant should have to do repairs in works of so dangerous a character as waterworks.

423. Are not the terms of the Valuation Act that they are to be valued at what a tenant would take them for for one year?—Yes, from year to year.

424. So that you do not exactly reckon the profit that he makes, in the way the Act would rate it; the Act would not deduct the maintenance; he would make his profit, and the 10 per cent. is placed to maintenance which he would lay out?—The works must be maintained some way or another; whether the valuator gave effect to that or no, is a different thing. Whether he is bound to do so or not, I do not know; I am not entering into that question.

425. *Chairman.*] Is there any other grievance you would like to point out to the Committee arising from the present system?—We think it a great hardship that pipes and underground works, which occupy no part of the surface, which surface is separately assessed in the ordinary way as agricultural land, we think it a great hardship to pay assessment at all on underground pipes; but we consented not long ago, if an arrangement to that effect could be made by Parliament, to be assessed on one-fourth of the valued rent. We should be content with that. Now, there are one or two circumstances you will, perhaps, allow me to mention. In several of our parishes we have not a single resident individual, and in those parishes we certainly cannot create pauperism, having no population Then again, these underground works for police purposes require no protection. We do not ask their assistance in any way; and although we are willing to pay police assessment at a modified rate, we think it is very hard that we should be assessed for parochial purposes or police purposes, seeing that we neither add to pauperism nor to crime, and that we require no protection.

426. For police rates and county rates you get no deduction on account of repairs?—No deduction from the rental fixed under the Valuation Act. We are paying on the full rent. It is a little peculiar; and I may mention one parish, that of Kirkliston. We have there an aqueduct that runs through an angle of a detached portion of the parish upon the Pentland Hills. It is a very high country, 800 or 900 feet high, and the land is very poor, worth from 10 *s.* to 12 *s.* an acre. Our aqueduct is 200 yards long, all underground. The surface is not disturbed in any way, but is fully occupied by the tenant, the agricultural value in no respect being affected, and that morsel is about two yards in width, being altogether about one-twelfth part of an acre. Now, an acre of land there, in property, is not worth more than, I suppose, 15 *l.*, 20 *l.*, 25 *l.*, or 30 *l.* The one-twelfth part of the land in fee would not be worth more than 50 *s.* to purchase the whole concern; but we are assessed upon that at a yearly rent of 220 *l.*

427. How much did you lay out in that parish?—I believe the rent is in proportion to our outlay, or nearly so. I have no doubt it is. We do not object to it. That was adjusted by the county assessor; but we think it is very hard in cases of that kind to be so heavily taxed, when if it had occurred in the parish of Colinton, we should find works which fully occupy the surface, as canals and railways do, but which are getting 35 per cent. off, while we are only getting 10 per cent., where we do not occupy an inch of the surface.

428. What appeal is there; is there an appeal from the judgment of the parochial board?—Well, we tried appeals, but we were not very successful; and I think it is a very hopeless business for a joint-stock company to appeal to the boards to whom that appeal lies. It is quite a useless thing. No person who knows anything about it would think of it. We tried it, but with very small success. What we are most urgent for is, that we should know what we are bound to pay. We do not know at all. It is quite an arbitrary thing. And even if we did know, under the way in which the arrangement is modified by the operation of the Poor Law Act as affecting the Valuation Act, it might be made to tell heavily against us, by other people being let off cheap while they put us on a high rent, or give us no abatement.

429. The remedy you would propose would be to give the county assessor the power of making the deduction in the valuation roll, and putting it on an equitable footing?—What we wish is, that the valuation roll be so made that it shall not be liable to be tampered with by anybody.

430. Then you would have no discretionary power exercised by the parochial board?—I would not.

431. Mr. *Blackburn.*] How is the valuation roll made up?—What I mean to say is, that the valuation roll should be binding.

432. *Chairman.*] Not subject to a subsequent operation?—And that where there are special expenses applying to certain descriptions of property, either from necessary repair or other heavy annual outlay, such, for example, as are incurred by railways, where the outlay is very heavy, where that occurs, it should be all taken off under the Valuation Act, and not be given off in the shape of per-centages after it comes to the parochial boards.

433. Mr. *Blackburn.*] In fact, you would have a column for nett value, and one for gross value; and on that nett value all rates should be levied?—Yes.

434. You do not think it is unjust that one party shall have more taken off than another, if he

he can prove that the maintenance of his work costs more than the other?—Certainly not; but what I do maintain is, that people should know why it is taken off, and that it is taken off by the proper person, the valuator. Somebody, whether a company, or an individual, makes an application to the parochial board, and the parochial board give him large deductions, in the shape of percentages, such as I have instanced to you, which to me seems unjust.

435. You mentioned that your works are valued by the sum you have expended on them in each particular parish, and not taken on the mileage as it has been done in the case of railways?—I do not know how it is done with railways.

436. For instance, supposing you went 10 miles through a parish, and took valuable ground worth 100 *l.* an acre, that is 1,000 *l.*, but it costs very little for works; you build an aqueduct on a barren piece of ground, and that aqueduct may cost you 10,000 *l.*, only occupying half an acre; do you think that the parish that had lost very little ground, should get a rate in proportion to the expense of the aqueduct, while the parish that has lost a large piece of valuable wheat land, should only get it according to the expense of digging a ditch?—That is a point for consideration; many such things would turn up in the operation of the Act. Difficulties would occur in any way.

437. Is not it, in your opinion, the power of conducting the water which should be rated, and not the cost of the pipes?—We should not care one way or the other, so that we get it at a greatly reduced rate, and below the rate of ordinary property.

438. That is scarcely the thing; the point is what is just and fair; should the rate be upon the value that is occupied as your property, as for carrying water, or has it anything to do with what it costs?—I think it has; I think it is a fair thing for the parishes, if we lay out a large sum of money in the parish, although the surface of the land remains untouched, that we should be contributors, to a larger extent than the mere value of the land, to the poor of the parish.

439. *Chairman.*] You create a property?—We create a property.

440. Mr. *Blackburn.*] Is the value of the land measured by its cost, or by its productiveness?—By the cost in the first instance, and the productiveness as set against the cost. Perhaps you will allow me to illustrate it by figures. Suppose we lay out 500,000 *l.* upon our works altogether, and supposing we lay out 100,000 *l.* of that in one parish, and that our nett income, call it 25,000 *l.* (it is a little more), but I will call it so for the purpose of division, that would be represented by a rental of something like 5,000 *l.*; but I think it is very far from being a fair way of doing it to assess us upon our works at the full cost or on the full profits of those works, seeing that those works have no effect in any way whatever in increasing either the pauperism, or the crime from which the police are supposed to protect us.

441. The thing is this: supposing this expensive part only carried half as much water as the cheaper part, it is the water that makes the profit, and is it fair that one with an expensive work, carrying little water, should get a larger rate than a part of the work that carries a large quantity of water at little expense?—It is scarcely fair; but I do not see quite well how it is possible to do it in any other way. There would be difficulties in the working out of any Act of Parliament that could be passed; so it strikes me at least; but it is an important thing that a mode of taxation should be simple and easily understood.

442. Is not a mileage a very simple way; if you go 10 miles through this parish, you therefore pay 10 times as much as where you only go one mile through another parish?—If you go 10 miles through a parish where the land is very cheap and your work is very costly, you have created capital on that poor land; but if you go through very costly land for the same distance, and the works cost very little, I apprehend that the sound principle is that derived from the company's outlay, without reference to the normal value of the land.

443. Supposing that your water source ran dry, and no more water came, would the expensive work be a bit better than the poor work when the water ceased to pass through?—No.

444. Is it not the water that gives the value, and not the work?—It is the water that gives the value, but the water is valued as against the proportionate outlay of the cost. I am not certain whether I am making myself clear.

Mr. *Blackburn.*] I quite understand you; but the thing is I do not agree with you.

445. Mr. *Leslie.*] Do you conduct your business in this Edinburgh company the same as it is conducted in Glasgow, that is to say, reducing the charge to the inhabitants to the lowest possible figure?—We are not a corporation; our business is in the hands of a joint-stock company.

446. Major *Cumming Bruce.*]—Your object would be to make the greatest profit the public would submit to from you?—No; we are tied up. We cannot divide more than 6½ per cent. We might be willing to take a higher profit if we could get it.

447. Mr. *Leslie.*] You do not reach that?—We have reached it recently only, and we are paying that now.

448. I thought you said a tenant would only make four per cent. out of it?—I am speaking of the assessment, and of the assessed rent as that paid by the tenant being represented by that rent, in which case the tenant would only have been left a very small return for his money.

449. Major *Cumming Bruce.*] You said just now you considered it a hardship that you should be assessed for the poor upon a certain valuation, seeing that you did nothing towards increasing the amount of pauperism?—I think so.

450. You consider the assessment for the relief of the poor should be not an assessment on the general property in the parish, but upon the proportion which each individual contributes towards the formation of the poor?—If you could put it on that footing, it would be an equitable footing; but I am afraid it would be impossible. I do not know how it could be carried out in practice. There would be exceptional cases, implying a greater or smaller amount of hardship; and I doubt very much whether it is possible to create such a law without incurring such difficulties.

451. You also said, I think, that you thought it an unjust thing to value your pipes where your aqueduct below the ground did not disturb the surface;

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surface; that they should be assessed at no amount whatever?—We think so, and where we contribute nothing to the parish pauperism, it would be so in equity; but I doubt very much whether it would be possible to carry it into practice.

452. Would it be equity, supposing you were to buy from the proprietor, who is ready to prevent your going through the land, unless you are empowered by Act of Parliament, supposing you buy the right of carrying water under there, do you think it is not quite as fair that you should contribute to the public relief in the same proportion as you pay the proprietor of the land?—No, not at all. I do not think so; for, although we pay very handsomely to the proprietor, who takes good care never to allow a joint-stock company to escape, and who gets good value for his property, in the instance I have given you, we may get no value whatever. We create no pauperism; therefore, I think, in equity, we should be relieved from poor rates. Crime, we say, is impossible. Our works require no protection, and could not be injured by any wicked person.

453. Colonel *Pennant.*] I do not know whether I quite understand about the rating different portions of your work; I understand you to mean, in each parish, according to the outlay in that parish, the rating, according to the proportion that that outlay bears to the total profit, is the proportion contributed?—That is the way.

454. Is it not the case, in some of your works, that, owing to inequalities of ground, it very often happens in an equal distance the outlay in one parish would be proportionately greater than in another, irrespective of the nature of the soil?—Very much indeed.

455. From the nature of the work which the conduit necessitates?—Exactly.

456. Is not it an unfair principle, that because you lay out a larger sum in one parish than another, that, therefore, you should be valued to that parish higher than another?—It would be very difficult to adjust any question of that kind upon a purely equitable footing, I think.

457. Do you think that acting at all upon any proportion with regard to the outlay in each district is a fair mode?—I think that, when combined with the general productiveness of the united works, it is the nearest approximation to fairness that you can take that would be workable.

458. Supposing you have two works running parallel to each other, one returning a profit of 100,000*l.* a year, and the other only returning a profit of 1,000*l.* a year; would you make a valuation upon the outlay, and not upon the beneficial occupation of that property?— The value is not derived from the outlay, but from the produce; and it is by imputing the produce to the outlay that you arrive at an equitable annual value.

459. That is, the beneficial occupation of it?—Yes; but still, so far as I am able to judge (I am probably mistaken in my view), but it occurs to me that you can hardly, in any great general measure that this Committee may adopt, go into questions of that kind, but you must have some uniform system that people can operate upon, and especially that people may understand; and when people know what they have to pay, know what obligations are upon them, they provide accordingly; but where it is left to the discretion of parochial boards, after the valuation has been made up under an Act of Parliament, which is supposed to represent the true value of all property, it seems a little hard, and, I must say, a little absurd, to find it cut upon in the way I have been speaking of by different parochial boards.

460. I think you have already said that you see no objection why the valuation roll should not contain two columns, one the gross rental, the value of the property, and the other the rateable value; you see no objection to that?—None whatever.

461. That rateable value would in that case be fixed according to the necessary deduction of keeping up that property in a state of repair?—Certainly.

462. And that would vary according to the different requirements of each description of property as to its being restored again to that state?—No doubt.

463. That, you think, would be a fair principle?—Yes; I think it is the only fair principle, keeping in view always the exceptional character of underground waterworks.

464. Are you acquainted with the value of property of other sorts besides these waterworks?—I know something about land.

465. Is there anything, in your knowledge, dependent upon the entry in the valuation roll which would be affected by a change of that sort; is not there a franchise in some degree depending upon it?—Yes.

466. Would that in any way affect the franchise; supposing there were two columns kept, one the rateable value and the other the rental value, would that in any way affect or alter the franchise?—I do not know.

467. You are not able to give an opinion upon that subject?—I would rather not give any opinion.

468. Mr. *Mackie.*] You object that you are not upon the same footing as other ratepayers as regards the abatements you get under the Poor Law Act?—Precisely so.

469. Supposing you took away from the Poor Law Board the discretion which they have at present of making abatements at all, and supposing you put on a rate upon the gross value, would not that be fair for one and fair for all?—Yes, I think so; but, you remember, I am speaking of an exceptional character of works which I describe as pipes and underground works. I think Parliament has already recognised the right of that description of works to be assessed at a lower rate than other descriptions of property, along with navigable canals and railways; but that has not been given effect to in Scotland in any general Act; and so we are at the mercy of every parish.

470. Which is the simpler mode of valuation, the gross valuation?—Gross valuation is, I think, the simplest of all; but the valuator could make any necessary deductions; and, suppose you arrange the columns of the book in any way you please, it does not signify, providing it is clear and distinct. What we think, in order to give effect to a reduction in the rental of the description of property I am talking about, is that it should be made by a special enactment, not to be valued at more than one-fourth; that is, recognising what Parliament has already done in many instances, especially in two public Acts that I know of, and in a great many private ones. If it were done, it would not affect the simplicity in

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in the very least; it would be no less simple than any other mode, and then persons concerned with such works, as navigable canals, railways, pipes, and underground works, of waterworks and gasworks, would understand distinctly the extent of their liability under the Act of Parliament, which certainly should not be higher than one-fourth of the gross value as found by the assessor.

471. Do not you think you might bring in a special Act of Parliament to meet these exceptional cases without overturning the whole system of valuation in consequence?—A private company could not do it. It is for Parliament to do it, and not for any private company. In fact, no private company could carry a Bill of that kind through Parliament.

472. Are the generality of people in Scotland, so far as you know, contented with the present system?—Well, people who pay house rates grumble sometimes; they will grumble do what you will; but there are people again who are connected with large works who complain most bitterly indeed; they have tried appeals and all sorts of things without being very successful. The great grief is, that we do not know what we are liable for. Although the valuation is made under the Valuation Act, it is modified in favour of one class or two or three classes of persons at the expense of the other classes. Keeping in view that we should be limited as to assessment on those pipes and underground works along with those other large subjects that I am speaking of, it would completely settle the whole matter to have a clause introduced into an Act of Parliament fixing those at one-fourth or some such sum, which would be a very high valuation for that description of works.

473. *Chairman.*] Is there anything else that you would like to state?—I will mention one parish; but I think I could mention other instances, where we pay extraordinary rates. The instances I could find would be as prominent as the one I have already given. In the parish of Glencorse, for example, the whole of the assessed rental, not including the Water Company, was for the year to which I refer, 6,751 *l.* The Water Company occupy less than 100 acres of ground in the whole parish, but having extensive underground works, are assessed upon a rental of 4,524 *l.* It is a parish of considerable extent, and very beautiful, and contains the residences of gentlemen of rank and position; but it is certainly very striking to contrast that 4,524 *l.* against 6,751 *l.*, which is the whole rental of the parish. We occupy the mere fraction of the area of it, not more than 100 acres of land, upon a considerable portion of which we pay as tenants.

474. Mr. *Leslie.*] What might be your outlay in that parish?—I do not remember at this moment, but the rent, 4,524 *l.*, was stated as being in proportion to the outlay.

Mr. James Russell, called in; and Examined.

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475. *Chairman.*] You are a Schoolmaster in the parish of Colinton, and Inspector of the Poor, and Collector of Poor's rate?—Yes.

476. Will you explain to us the course which the Parochial Board take in making the deductions from different classes of property under your General Act of 1845, from the valuation which is made by the county assessor?—We have given for a number of years deductions, viz. 10 per cent. off the gross value of land used for agricultural purposes, 25 per cent. off the gross value given us by the assessor for house property; we give 30 per cent. to mills and manufactories, and 35 per cent. to railways.

477. Have you any canals in your parish?—The Union Canal is in the occupation of the Edinburgh and Glasgow Railway, and we give them 35 per cent., the same as the Caledonian Railway, which also passes through our parish. There is about 1⅞ths of a mile of each in the parish.

478. You give these per-centages of deduction universally over all property of the same class?—Yes.

479. You do not examine property with property, or house with house, and give deductions for each property, but you give a per-centage over the whole property of the same class?—The Parochial Board conceived that these per-centages are sufficient in all cases to cover the outlay, as mentioned in the 37th clause of the Poor Law Act.

480. What proceedings did the Parochial Board take in order to come to the conclusion as to the per-centages?—I cannot tell.

481. Was it before your time?—No, it was not before my time. Some members of our Board were farmers; the Board is composed of farmers and mill masters, and all sorts of gentlemen in the parish, holding different classes of property, and they agreed that 10 per cent. was sufficient to cover the expenses of land, and 25 per cent. was sufficient for keeping up expensive house property, which, of course, is always undergoing repairs; and that mills, again, being very expensive to uphold, required a little more than house property. We only gave railways, for a good many years, 25 per cent., but latterly the railway companies wrote to us, and said they would take 35 per cent. and we agreed to give it them, to prevent the sort of dispute we had had yearly with them.

482. How do you find that work; does it give satisfaction to the different classes?—I believe they are generally satisfied.

483. You do not find house people say, "Our house should be of such and such a value by itself?"—No, they do not say that.

484. Are they contented with the rate of deduction?—We had a great deal of strife and contention and what not, at the laying on of these at first, but in the end people got acquainted with them and agreed to allow the thing to continue.

485. And you have had latterly no remonstrances except from the railway company that you mentioned?—They are quite satisfied now, and have been for the last two or three years; at least, that is, since they intimated that 35 per cent. was the lowest they would take; our Parochial Board agreed to give it to put an end to the matter.

486. Before that it was 30 per cent.?—Thirty or 25, I am not sure which; I believe the same that the mills were at. The railway companies

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companies told us their works were more expensive to keep up than the mills.

487. Do any of the Water Company's conduits pass through your parish?—Yes.

488. How do you rate them?—They just get 10 per cent.

489. You class them with the agricultural subjects?—With the land.

490. On what principle is that? — Well, I cannot very well tell. The Parochial Board seemed to think that the expenses connected with the Water Company in our parish were very little, and agreed to give them only the same deduction as to land.

491. Taking in view the maintenance of the works in your parish only?—I think that was the view taken at the time these deductions were fixed.

492. You did not look to the expenditure elsewhere?—We have no means of ascertaining that.

493. And you think it would fall under the lowest class of expenditure? — We give them upon the lowest rate.

494. How do you value the mills; in what way does the Parochial Board proceed to put a value on manufactories?—The mill masters, something like the railways, said they would require at least 35 per cent., and the Parochial Board, knowing that the works are very expensive to uphold, agreed to give it them.

495. It was rather a compromise than done on investigation?—Yes, sir; indeed it was. There was no investigation made into the matter at all, as far as I am aware.

496. You have several gentlemen's houses in your parish?—We have.

497. On what rule do you rate them?—Well, I do not know very well what rule they rate upon. The Parochial Board would say, "This house is worth so much, and that so much."

498. You do not consider the outlay on them?—I do not think so; they would consider what it would perhaps rent for supposing it was in the market; they would value it in that way; if it was in the occupation of a proprietor they would put a marketable value upon it.

499. Mr. *Leslie.*] The assessor states the value of each mansion in the roll?—Now he does; this was before we had an assessor, before the Valuation Act came into force at all.

500. Major *Bruce.*] Do you continue the same deductions?—The same deductions.

501. Mr. *Blackburn.*] Do you take 10 per cent. off the value of all kinds of land; a sheep farm the same as an arable farm?—We treat them just the same.

502. If you take 10 per cent. off land, and 25 per cent. off houses and mills, and 5 per cent. off railways and canals, may you not just as well begin by taking nothing off land, and 15 per cent. off houses and mills, and 25 per cent. off railways and canals?—It would be the same thing, I suppose.

503. What is the advantage of the 10 per cent. being taken off land?—Just to satisfy parties who say they have a right to something off under the 37th clause off the Act. Some parishes give 20 per cent. off the whole. That is the same as giving no deduction.

504. *Chairman.*] That is in compliance with the Act of Parliament?—It was in compliance with the Act of Parliament that the deductions were given at all.

505. Mr. *Blackburn.*] In assessing a farm, the farm-house is included in the rent of the farm; that is not a separate affair?—No, it is not.

506. Sir *J. Ogilvy.*] You do not give the deduction for the house?—No.

507. Mr. *Blackburn.*] Your assessments at present are all founded on the valuation roll of these deductions?—Yes.

508. And would you prefer, if you made any deductions, to have a column in the valuation roll where there should be the net value stated for each, so that the rate should be levied without any deductions at all?—I should prefer to have the thing just cut and dry ready for the assessing.

509. Mr. *Leslie.*] You would be quite willing to leave that to the assessors?—I should.

510. Without any appeal?—That is a question; the appeals would be all over before the valuation roll came to us.

511. You see no objection to such deduction as the assessor might award being made a bone of contention at every appeal court every year?—

> Mr. *Blackburn.*] I think the Witness means this, that he would rather that the valuation roll definitely stated what deductions were to be made, so that the parish should have nothing to do but to take the valuation roll.

Witness.] That is what I mean.

512. The appeals would all be between the assessor and the individual before it came to the parish?—Yes. Here is the working roll of the parish for 1863–4. In the first column we have the exact rent given; then, in another column, our rates of deduction are given; 10 per cent,. 30 per cent., and so on, as the case may be. Those deductions, taken from the gross rental, give us the amount assessable, and then upon that we charge so much a pound to bring up the amount of money we require. I would certainly prefer to have the sum assessable given at once by the assessor, and have done with the deductions altogether.

513. Major *Bruce.*] You made those rates of deduction without much inquiry?—I should say so.

514. Your motto was, "Anything for a quiet life?"—We wished to get rid of a squabble. With regard to land, they thought 10 per cent. was quite sufficient to cover all expenses.

515. You say that railways are allowed a deduction of 35 per cent., and land a deduction of 10 per cent.?—Yes.

516. How is the railway property to receive that 35 per cent.; how did it arise in the first instance?—The railway company wrote to us that they were dissatisfied with the amount of deduction we had given, which was either 25 per cent. or 30 per cent., and said they would be satisfied with 35 per cent., and the Parochial Board instructed me to accept the offer made by the railway companies, and to give them 35.

517. Then the sum brought to you for assessment from the railway company from which you were to deduct 35 per cent. was that brought to you by the railway assessor?—In our parish we have no transactions with the railway assessor. We get the parish rental from the valuation roll, as made up under the Lands Valuation Act.

518. Were any deductions allowed by the railway

way assessor before that was brought to you?—Those valuations were brought to me as exhibited in the certified valuation roll obtained from the Commissioner of Supply.

519. Can you say whether the railway assessor, in giving it to the Commissioner of Supply, had previously made any deductions upon the profits of the railway company?—I cannot speak as to that; I rather think not, but I am not certain.

520. Mr. *Leslie.*] How is your Board constituted; how many members have you?—Upwards of 50.

521. Do you know how many of them are agricultural, and how many of them are owners of mills?—I could not say at present.

522. I should wish to know how the various interests are represented, because there seems to be considerable unanimity in the Board?—We have mill masters, and farmers, and heritors of all sorts, and proprietors, who are, of course, all entitled to sit in the Board.

523. You do not know any proportion; how many of them are agricultural?—I could not say. We have 12 heritors, and all these are represented at the Board. They are the proprietors of the whole parish.

524. What is the gross rental of the parish?—The gross rental of the parish is nearly 24,000 *l.*

525. Major *Bruce.*] The occupiers or tenants elect a certain number, don't they, of their own body to sit at the Board?—Yes.

526. How many do they elect?—They are limited to three by the Board of Supervision, and we elect these three members once a year, one to represent the farming interest, one to represent the mill interest, and another the houses, or feuars, and the tenants or proprietors of small houses.

527. *Chairman.*] Some of the millowners are members as heritors, are they not?—Yes, sir.

528. They are all tenants?—Some are both heritors and occupiers.

529. Colonel *Pennant.*] The relative value of each separate heritage is fixed by the column of gross rental?—Yes.

530. Your deduction from that gross rental value is done by a classification of the property?—Yes.

531. And you have a certain deduction for each description of property?—Just so.

532. You were asked a question about the 10 per cent. deduction allowed from land; is there not a certain amount of necessary repair even in the case of land, the occupation of land and fences; there are certain repairs which are necessary in order to keep land up to the same tenantable state?—Yes.

533. Is it your opinion that that certain amount of deduction is fair from the land?—The proprietors are quite satisfied with 10 per cent. as being sufficient in ordinary cases for the ordinary outlay.

534. You expressed your opinion just now that it would be better to have but one column in the valuation roll, and that these deductions should be taken for each description of property in fixing the rental value?—I should prefer receiving it from the hands of the assessor without our meddling with it at all.

535. I did not quite understand whether you meant the actual valuation roll should be altered down to a rateable value, instead of a rental value, or whether you merely meant that the officer, whoever it is, who keeps the valuation roll, the assessor, should hand over to you these deductions already made in each description of property?—What I meant was, I would prefer receiving the roll with all the deductions taken off before the parish came to do with it at all.

536. That could be done without altering the actual valuation roll itself, could it not?—I think it might.

537. *Chairman.*] It would just require another column?—I think it might. Here is a copy of our valuation roll, and I do not see any difficulty in putting in another column. Here is the valuation given us in the meantime. Another column extended here would be all that would be required.

538. Mr. *Leslie.*] Supposing a tenant pays 50 *l.* a year, and you take off 10 per cent.; that reduces his rental to 40 *l.* He then ceases to be a voter?—

> *Chairman.*] No; the Witness proposed to give the additional column; not to strike out the gross column, but to give an additional column.
>
> Mr. *Leslie.*] But if the tenant were rated at 40 *l.* he would not be entitled to vote.

—At our Parochial Board he does not vote as it is. He has no right whatever.

539. Sir *G. Montgomery.*] What is the practice in the neighbouring parishes; is it the practice to allow 10 per cent. on land, and 25 per cent. on house property?—As far as I know, in the neighbouring parish they give 20 per cent. on everything.

540. Is the parish of Colinton an exception?—We are an exception. We are the only classified parish, I think, in the county. The other parish I speak of is not classified, and 20 per cent. is given off for lands and everything; nothing more or less than 20 per cent. given off. There is no classification, and when 20 per cent. is given off to each, it is just the same as if nothing was given at all. It was merely to satisfy the parties, under the 37th section, that that was done.

541. Mr. *Mackie.*] Suppose you have no abatements under the Poor Law Act, then there would be no occasion for a rateable column, a column of rateable value?—Of course not.

542. *Chairman.*] The result of that would be all would pay equally however great the outlay, however great the disparity in the outlay?—I think so.

543. And does that appear to you to be a just rule?—Well, according to our present mode of going to work, of course it would make a very great difference.

544. Your neighbouring parishes make no distinction of class?—No.

545. They all pay just as if it was paid on the gross value?—The same deduction is taken off the whole.

546. That is just the same as if no deduction was taken off?—No doubt of it.

547. Of your plan or their plan, which do you think is the most just?—Their plan, I may say, is perfectly just, because they all receive alike, but it is questionable whether ours may be exactly just.

548. But in the other case the mill people may have to lay out 40 per cent. in repairs, and the land proprietor only 10 per cent.?—Of course

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the one has a great advantage over the other; there is no doubt about that.

549. Sir *J. Ogilvy.*] Are there railways and canals in the parish that you are alluding to?—Yes.

550. Mr. *Blackburn.*] Do they consent to this assessment?—I think, as far as I can remember, that in the case of railways in these parishes they give them the same deduction that they give to all the other property.

551. *Chairman.*] Is there anything we have neglected to ask you that you would like to state?—The only thing is the giving the Water Company the 10 per cent. They pay a very large rate in our parish, and they do not bring any pauperism upon us at all. They have only one man resident within the parish.

552. Sir *J. Ogilvy.*] What do you make them pay; what deduction do you give them?—Ten per cent.

553. *Chairman.*] What amount do you rate them at; what is the total rental at which you rate them?—The rental this year is upwards of 3,000 *l.*, and the amount paid to me this year by the Water Company, for their works alone in the parish, was 168 *l.* 8 *s.*

554. What is the gross amount of your assessment?—About 950 *l.* Their valuation is about one-sixth of the whole, or thereabouts.

Mr. George Dods, called in; and Examined.

Mr. *G. Dods.*

555. *Chairman.*] You are the Railway Assessor appointed by the Government under the Valuation Act?—Yes.

556. You also, in that capacity, value besides railways and canals, gas-works, and waterworks?—Those that choose to apply to me. I have done so in the case of the Glasgow Corporation Waterworks, and the Glasgow Suburban Gas Company.

557. Are those the only two?—Those are the only two.

558. Would you explain to the Committee what course you follow in making your valuations under the Act?—How I arrive at the annual value?

559. Yes; will you explain that?—I take, in the first place, the gross income of the company from all sources, and from this I deduct the working expenses, with the exception of the item "maintenance of way." I thus arrive at the nett value, after which I deduct fixed per-centage for tenant's profits, and for interest of the capital invested in the plant; after these are deducted, the residue is the annual value of the subject.

560. That is the value you put in your valuation roll?—Yes.

561. You make no deduction for repairs or upholding the way?—Nothing.

562. Then having done that you further proceed to allocate?—Yes; I apportion it according to the extent in the different parishes as we go along.

563. You make a separate valuation for the stations?—I ascertain the original cost of construction of all the stations, and estimate their value at three per cent. of such cost. I deduct this from the cumulo value of the undertaking, and divide the remainder according to the mileage extent in each parish, adding again the value of the stations in the respective parishes as I go along.

564. Then the stations are not valued by you?—They are valued according to the amount expended in the acquisition of the solum and cost of construction. The companies inform me of the amount, and they are valued accordingly.

565. Then you value the stations at three per cent.?—Three per cent. of the cost.

566. That rules not only your deduction from the gross value of the heritable subject, but it also rules the value of those stations in the particular parish?—It is a deduction from the cumulo value in the first instance only that the value of the line *per se* may be ascertained; it is afterwards added to the value of the line in each particular parish.

567. So that they cannot go beyond that three per cent. value of the stations?—No.

568. How do you calculate the mileage with reference to the termini of the lines; do you make it just the same mileage?—I take two pair of rails from end to end, the sidings, platforms, and all buildings therewith connected are considered as "station."

569. And these come in with the three per cent. deduction?—Yes.

570. You have had occasion to have questions before you as arbitrator in reference to deductions made on railways through different parishes?—I have a case remitted to me from the court on a question between the city parish of Glasgow and the Edinburgh and Glasgow Railway Company about a rate. The railway refused to pay the rate, because the parish did not allow them a sufficient deduction, as directed by the 37th section of the Poor Law Act, and the Lord Ordinary remitted to me to inquire into the amount necessary to maintain this subject in the parish, and I have made up a report.

571. What railway is that?—The Edinburgh and Glasgow Railway.

572. In Glasgow?—In the city parish of Glasgow.

573. Then you have made an investigation as to the cost of maintaining the repairs?—Yes.

574. And what is the result at which you arrive?—A remit was made to me by the Lord Ordinary of the Court of Session. It was a question of assessment of poor rates between the Edinburgh and Glasgow Railway Company and the inspector of the poor of the parish. By the remit I was desired to consider and to report what amount of deduction was proper to be made from the valuation of the company's property within the said parish, in order to cover the annual average cost of repairs, insurance, and other expenses necessary to maintain the lines exactly in their actual state, and all the rates, taxes, and public charges payable in respect to the same. And, in a note appended to the remit, the Lord Ordinary says, "It appears to the Lord Ordinary (and he understood the parties to concur with him in this view) that the present was not a case for a proof at large on an issue, or otherwise, but was proper for a remit before answer to a man of skill. In making

making up the report regard will, of course, be had to the per-centage of deduction allowed on other lands and heritages in the parish, and the applicability of this, or of a different per-centage to the property to which the remit directly applies." The city parish of Glasgow, with very little exception, consists of house property. I had occasion to inquire into the average annual amount necessary to keep all these houses and different properties in repair. After an extended investigation, and the examination of numerous witnesses, I arrived at the conclusion that the following per-centages on the gross rent or value would fairly cover the expense of repairs and maintenance of the different classes of property. First class of house property 6 per cent., second class of house property 12 per cent., third class, and last description, 15 per cent.; public works 10 per cent., mines 5 per cent., agricultural lands, of which there are very small portions, 2½ per cent., and the Edinburgh and Glasgow Railway Company 33 $\frac{1}{10}$th per cent.

575. Mr. *Mackie.*] You said 10 per cent. for public works, what do you mean?—Property of the Clyde Trust, gas works, mills, foundries, and properties of that description.

576. *Chairman.*] You divide houses into three classes?—Yes.

577. Would you tell us what the description of each class is?—In the first is comprehended all the property in the best portions of Glasgow, the parks and squares, the Exchange, banks and insurance offices and so forth. I find five or six per cent. quite sufficient year by year to keep them in repair. The second class of property includes the dwelling-houses and shops in the better streets of Glasgow. There is a third and lower class of property which does not cost above 15 per cent. Although property of a very poor description, the amount spent in repairing is small.

578. Major *Cumming Bruce.*] Private houses require more repair?—Yes.

579. *Chairman.*] These conclusions you have drawn are not the result of a mere opinion or estimate on your part, but of investigation into the repairs actually required and made?—Yes. I may explain to the Committee how I arrived at that. I got the assessors of property tax to divide all the property in the parish into the different classes that I have referred to. I asked them to divide them house by house, and street by street. Then I examined three or four house agents who are most extensively employed in Glasgow as to the amount necessary to keep the different classes in a state of repair to command the rent. I first examined them individually and then collectively, and found that they agreed. I have here the result.

580. That is your ascertained conclusion from the evidence?—Yes.

581. And according to your opinion so formed, the railway company require fully double, or more than double, the very lowest description of house property in Glasgow?—Eighteen per cent. more than any other description of property.

582. Major *Cumming Bruce.*] And in your return of the valuation of railways you have kept in those deductions?—I have allowed no deduction for maintenance and repairs since the Lands Valuation Act came into operation.

583. *Chairman.*] Your opinion as to the railway company was on evidence as much as the other?—From actual figures. I got the actual figures.

584. The actual outlay made and not an estimate; now, with regard to the Water Company in Glasgow, will you inform us how you proceeded to make the estimate and the allocation?—In the first year it was rather an extensive accounting, because the new commissioners purchased up the works of two or three old companies. And, besides, expended nearly a million, I suppose, in bringing the water from Loch Katrine, and my difficulty was in apportioning the value from Loch Katrine to the distribution point. I ascertained first the gross outlay of the commissioners, what they had paid for the works of the old water companies, and what they had expended in new works; I then fixed the annual value of the whole, as thus constituted, and found that it was between 4½ and 5 per cent. on the gross capital. Having ascertained how much money was expended in each parish outside the distribution point, I entered the yearly value of the subject in that parish according to the above per-centage. This was up to the distribution point. From this point, I apportioned the remainder of the annual value in each parish according to the extent of service pipes therein; I measured the extent of the conduits and large pipes from Lock Katrine to the distribution point, and found that an apportionment of the value according to measurment and according to amount expended in each was nearly the same. I made the division according to the cost, as in my opinion, in all the circumstances, most equitable.

585. You divided it on the different parishes according to the length, did you?—According to the amount expended in the parishes until I came to the point of distribution.

586. According to the amount expended in each parish?—Yes.

587. We had a witness the other day from the Glasgow Water Company, who said the allocation was made according to the length of the conduit in each parish?—It happened very oddly, as I have explained, that the two correspond, or very nearly.

588. Your rule was the amount of expenditure and not the mileage?—I found the difference was so trifling that I took the expenditure as the foundation, and neither the parishes nor the Water Company made any objection. They all approved of the mode by which I had arrived at it.

589. Sir *Graham Montgomery.*] In the case of the railway you are obliged to take the mileage?—Yes; and, in the case of the waterworks, I also take the mileage after it comes to the distribution point; but till it comes to the distribution point it was taken according to the expenditure.

590. Colonel *Douglas Pennant.*] Your allocation by expenditure was done as a matter of convenience more than as a matter of principle?—I thought it fair.

591. Do you think that is a fair mode of allocating value in different parishes by the expenditure?—It was, I think, fair in the first instance. In subsequent years I have made no increase in the value in non-distributing parishes, unless a large sum for new works has been expended. When the annual profits have increased, I divide the increased value among the distributing parishes.

592. *Chairman.*] Have you had occasion to ascertain the amount of repairs and upholding in

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other railways besides the Edinburgh and Glasgow?—Yes; I have made up tables, showing the gross receipts, the receipts per mile, the amount of my annual valuation, the expense of maintenance, renewal, and the repairs of the principal railways in Scotland; also showing the per-centage of such maintenance to the gross receipts and to the value of the heritage, as well as the average cost per mile. As affecting the Caledonian Company, the table made up shows the expense of maintenance and repairs for the ten years ending 1864 to be 21·8 per cent. on the average valuation of those years. But it shows a gradually increasing expenditure for each of the latter years of the ten. The expenditure for 1862-63 was 24·6 per cent; for 1863-64 it was 26·4 per cent; and for 1864-65 it was 26·8 per cent.

593. You have no objection to put in that table?—I will put it in.

594. Will you just pick out, now, one or two specimens for illustrations?—The Glasgow and South Western table shows an average expenditure and maintenance for the ten years of 29·9 per cent.; then for 1862–63 it was 37·8 per cent.; for 1863–64 it was 41 per cent.; for 1864-65, 37·7 per cent. of the valuation.

595. Sir *Graham Montgomery.*] That is an increasing valuation?—It has been increasing to a considerable extent lately. (*The Witness handed in a Table, marked* (*A*). Vide *Appendix.*)

596. *Chairman.*] What is the lowest charge?—Of the double lines, I think, the Scottish North Eastern, where the average of expense of maintenance for nine years ending 1863 was 21 per cent. In 1861–62 it was 19 per cent.; in 1862-63 it was 18 per cent.; in 1863-64 it was 24 per cent.; it is now renewing to a large extent.

597. Colonel *Douglas Pennant.*] Do any part of those sums which you have represented there come under the deductions which you have allowed in the working expenses?—I may explain: in 1863 some of the larger companies appealed to the Lord Ordinary, on the ground that they were not allowed this maintenance of way; and the Lord Ordinary found that it was impossible for a tenant to occupy such a subject without having some supervision, without having men to see when the repairs were necessary; to walk along the line, and he allowed two per cent. upon the gross revenue as a sum inseparable from the occupation; this is a portion of the maintenance of way.

598. That was for supervision?—The Lord Ordinary was of opinion that no tenant could occupy such a subject, and work the line safely, unless he had men overlooking the line to see and report when the repairs were necessary.

599. Then he allowed a certain sum for supervision?—For supervision.

600. Was there any sum allowed for repairs and maintenance?—Nothing.

601. Not a penny?—Not a penny.

602. Then, under the head of "working expenses," which you said you deducted from the gross profits, there is no part of that deduction of working expenses which includes the actual outlay in maintenance or repairs of the road?—Not a penny.

603. I think you gave evidence last year before a Road Committee?—Yes.

604. And your evidence was to the same effect then?—It was to the same effect.

605. There was a doubt afterwards as to whether those things were allowed or not. With regard to the expenditure, the allocation by expenditure in different parishes, I should like to ask you, do you consider that in principle that is a fair mode of allocating the value of the heritage. Supposing there are two distinct miles of water-work-pipes, one mile passing through one parish, and another mile passing through another parish, and that from the nature of the ground an outlay was required in one parish to a much greater degree than in the other parish, simply on account of inequality in the ground; do you think it is a fair principle to go upon, to give to that parish the larger sum, merely because the nature of the ground necessitated a larger outlay in that parish than in the other?—In the case of the Glasgow Waterworks, I looked upon the construction for bringing it to the distribution point, in the same way as I did to the stations of a railway; very much upon the principle of valuing according to its cost; after I came to the distribution, I apportioned the value according to its extent in each parish.

606. Sir *Graham Montgomery.*] In the one case you are bound down by statute, in the case of the waterworks?—We are not bound in any way.

607. Then you mean to say you follow the mode of valuing for a railway?—I follow it in principle, though not in the per-centage.

608. Colonel *Douglas Pennant.*] In fact, if you take the actual profit, and you divide the land into these separate portions, you would be putting the highest value upon that which is the least profitable, because where the greatest outlay was made that would be the least profitable portion of the line; therefore, you are in fact putting the higher valuation, by that rule, upon the part that really is the least profitable; that is the case?—One portion of such an undertaking is of no value without the other. In the case of railway and canals, where there are tunnels, embankments, and viaducts, much greater outlay is necessary in one parish than another, but are all of equal value in bringing out a profit.

609. Mr. *Blackburn.*] That is by mileage; the stations occupy a considerable portion of ground more than the mileage; there may be 10 or 15 acres in a station, therefore it would not be fair to count that merely as part of the mileage; a considerable piece of land may be taken out of a town parish, for instance, and applied to railway purposes; it would not be fair to value it merely by the length of the rails lying?—Certainly not.

610. *Chairman.*] Have you a note of the cost of keeping up single lines; you have been giving us double lines?—The Great North of Scotland has a per-centage in 1864-65 of 27·9. That is a single line.

611. Major *Cumming Bruce.*] That is the expense of maintenance?—Yes, for last year. Then the per-centage for the Dee Side line for 1864–65 is 24·4 per cent. The per-centage for the Peebles line is 30 per cent. The per-centage for the St. Andrews, a very short line, is 34·5 per cent. The per-centage for the Crieff Junction is 2·55 per cent. That for the Alford Valley, a very poor line, is 55·2. The Perth and Almond Valley

is

is 41·4 per cent. The Aberdeen and Turriff is 48·7 per cent.

612. Mr. *Blackburn.*] Then there is the Forth and Clyde Junction?—The Forth and Clyde Junction is 68·6 per cent.

613. *Chairman.*] Are those large amounts all likely to be permanent?—I should think not to such an extent; the yearly value of the Forth and Clyde is 2,700*l.*, and it costs 1,800*l.* to keep it.

614. Is that likely to be a permanent expense?—It is increasing in value considerably, and as the yearly value increases, the per-centage of cost of maintenance will decrease. The Aberdeen and Turriff, and some of the Aberdeen lines, are not likely to increase, I am afraid.

615. Major *Cumming Bruce.*] Have you the Inverness and Aberdeen Junction?—It is not here, sir.

616. Do I understand you allow deductions to the extent of those repairs, or not?—I allow nothing.

617. You return it without any deduction?—I value them without any deduction for repairs, leaving the companies to go to the parishes and ask them to allow the deduction as directed by the 37th section of the Poor Law Act.

618. In valuing the property of the railways, do you deduct the interest they pay upon loans and money they have raised?—Oh, no.

619. You take the whole annual income?—Just what it is worth to let for a time. A proprietor may make what use he likes of the rent.

620. Mr. *Blackburn.*] Whether he is in debt or not?—Whether he is in debt or not.

621. In the deduction $33\frac{1}{10}$th per cent., which you make out under that remit from the Court, there was nothing included for rates and taxes. It was independently of that?—It was independent of rates and taxes.

622. Do you know how much would be added for rates and taxes?—The rates and taxes in Glasgow are 2·40 per cent. They are allowed in my accounting $2\frac{1}{2}$ per cent. as the tenant's proportion. This $2\frac{1}{2}$ is the landlord's proportion.

623. From your practice would you find any difficulty in adding a new column of assessable value; supposing the Act instructed you to make the allowance made by the Poor Law, do you think you should find any difficulty?—It would be difficult at first, as it was in making up my report under the remit, but it could be done, and, being once done, it could be carried on easily afterwards.

624. Major *Cumming Bruce.*] With regard to the valuation of the railway property, is it altered every year, or is it a fixed sum?—There is an alteration every year.

625. Would there be any difficulty in allowing a deduction for the expense of repairs year by year, before you entered the gross profits of the railway, including those deductions?—In place of allowing the sum they actually spend, it would be better to allow an average per-centage, if a fair one could be arrived at, as it varies very much.

626. Mr. *Blackburn.*] It would be an average of years; you think it would be better to make an allowance upon an average of years?—Yes; for instance, the Forth and Clyde is 68 per cent. this year.

627. Major *Cumming Bruce.*] At present your return includes all those sums laid out for maintenance of way which are not profits?—Yes; I expect they will get the deduction from the parochial board.

628. Would it not be more simple to take the actual divisible profit of each railway for its shareholders, as the yearly actual value which should be subject to assessment?—I have not thought of that. It would not be fair to the railway company to take the actual divisible sum, because the sum that they divide amongst their shareholders includes profits of their business as carriers on the line.

629. Mr. *Blackburn.*] I think you are in error. That would not represent the value of the rateable property; but the profits of the trader would be included, and the profits of traders are not included in the rateable amount?—Profits of trade are not rateable, and as interest on debts are deducted before they divide annually, a rate upon the divisable sum would not be fair.

Mr. *Blackburn.*] The profits on trade would bring them up too much on the one side, and the interest being deducted would bring them too low on the other.

630. Major *Cumming Bruce.*] You are aware in the case of money taken of the Government for the improvement of land; supposing I borrow 1,000*l.* of Government, for which I pay for 22 years $6\frac{1}{2}$ per cent., I pass that money from the occupant of the land to the Government. It is counted against the land as an increased rent; no deduction is allowed for it?—The value of the land is increased to that extent, and you get an increased rent, I presume.

631. You get no increased rent?—You pass the sum to the Government, and eventually your land would be increased in value.

Major *Cumming Bruce.*] At the end of 22 years.

632. Sir *Graham Montgomery.*] Supposing it were decided to alter the valuation roll, and to have a nett column of rateable value, would you advise each assessor to make up that column for himself, or that it should be done by dividing the property into classes, and allowing a certain per-centage over it?—I think it would be most satisfactory to divide it into classes.

633. It would be more satisfactory to divide it into classes, and to have a certain deduction to each?—Yes; the appeal in the case would simply be "to which class do I belong?" When that was ascertained, the assessor would have no difficulty whatever in applying the rule.

634. You are fixed down by the statute to per-centages?—Yes.

635. This appeal would be merely as to which class of property the property was to go into?—I think so.

636. That is your opinion as to how things could be done?—I have thought over it, and I think it is much the simplest way; it would be more satisfactory too.

637. It would give more satisfaction to rate-payers in general, than to have each assessor making his own valuation?—Yes; the assessor would be required to show both the gross value and the nett.

638. Mr. *Mackie.*] How would it do to allow these railways and canals, and property of that description, to come to Parliament and get a special Act of Parliament for their case as being

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an exceptional one?—Their's is certainly the most exceptional case. They have more ground to complain than any others.

639. If they come to Parliament and get the grievance which they complain of remedied by Parliament, and leave the valuation roll as to other species of property as it stands, how would that do?—I presume that is all the railway interest would wish; they would leave the Land Valuation Act as it stands now. I believe generally, in Scotland, it gives satisfaction to the proprietors of all descriptions of property, excepting railways and canals.

640. *Chairman.*] Have you anything else you would like to state on the subject of our inquiry?—I wish to explain, that, in the printed report I have handed in, it is stated that the expense of maintenance, as brought out in the accounts, does not (in my opinion) include the whole sum necessary to maintain and reproduce the subject. I there state that "The 'life' of a railway such as that of the suspenders; that is, the period within which (in addition to the ordinary maintenance and repair) a total renewal of the work should be effected, in order to keep it in a state to command the rent, is variously estimated, by practical engineers, at from 12 to 16 years. Assuming this extreme period of 16 years as the period of endurance of the suspenders' line, it appears, from calculation, that the extent which should have been renewed, during the 12 years to which the averages apply, is about 78 miles. But, from the printed reports and other data in the reporter's possession, not over 50 miles seem to have been so renewed during that period, and the expense thereof included in the sums before allowed. There will, therefore, be thrown on the Railway Company a much heavier charge for renewal during the remaining period of the 16 years till the renewal of the entire line is completed, and which increased renewal is now going on, as is shown by the larger sums expended under this head during the last two years." I estimated that at five per cent. additional to the sum.

641. *Chairman.*] You will put in that report if you please? (*The report was put in, marked* (B).—Vide *Appendix.*)

Mr. William Bennet, called in; and Examined.

Mr. *W. Bennet.*

642. *Chairman.*] You are an Assistant to Mr. Dods?—Yes.

643. You have acted with him in making these different calculations and inquiries?—Yes.

644. Have you anything to state in addition to what he has said?—It has been my duty to inquire particularly into the railway accounts, to analyse them in order to bring out the valuation; and in doing so I have to look to see all the items that would fairly come under maintenance and renewal, in order to exclude them and allow the local Boards to give provision for them; and I think that while we are doing that, absolutely taking cognizance of those figures, that we would be the best parties to give a deduction for them again; seeing that we have to inquire into everything, and to be particular in reducing the figures, I think we should be the parties best able to complete the whole affair.

645. That is to say, if the Legislature determine that the valuation should be so made, that instead of its being left to each parochial Board to make a deduction, it should be made generally by the parties who make up the valuation?—Quite so.

646. Are there any results that you have arrived at?—I have gone into the question of a general average, to see whether that would be fair to all railways, and I find that it would not. I think, were such an Act passed, the assessor should have power to inquire into each special case, and grant a special average to each railway.

647. Will you state the extremes of the cases to which you refer, when you say it will not answer the purpose to make a general average?—I find, while 21·8 per cent. is the average of the Caledonian Railway; 29·9 per cent. is the Glasgow and South Western average; 22·6 per cent. the Scottish North Eastern; 26·7 per cent. the Scottish Central; 28 per cent. the Edinburgh and Glasgow; 37·4 per cent. the North British; while the average of the whole of this is 25·7 per cent. Now to adopt that as an average, (25·7 per cent.), would be adopting that which is short of what is necessary to keep up the North British, the Edinburgh and Glasgow, the Scottish Central, and the Glasgow and South Western; and it would be too much to give to the Scottish North Eastern and to the Caledonian.

648. Would there be any great practical difficuly in bringing out an average deduction for each railway separately?—I do not see any great difficulty, except the amount of labour that it would entail; that is all.

649. Once done, the corrections could be made easily?—Just so. From year to year, you will see that the sums expended from year to year, if allowed by the assessor, would cause a great fluctuation in the valuation, which is a thing not to be desired at all; an average must be taken, whichever way it is got at.

650. An average of years?—An average of years must be taken.

651. What number of years have you taken into view in the average you are giving?—Ten years; since the operation of our Act. I find the Caledonian Railway spent 95,090 *l.* last year in maintaining and renewing the subject; whereas, to grant a sum for maintenance and renewal upon its average of 10 years, would only be 77,294 *l.*, showing a difference of 17,796 *l.* In the Glasgow and South Western, upon the same principle, there would be a loss of 14,000 *l.*; in the Scottish North Eastern there would be a loss of 9,500 *l.*; in the Scottish Central there would be a loss of 13,000 *l.*

652. Major *Cumming Bruce.*] On the average of years?—Yes, as against the sum positively expended, showing that an average should be taken to keep the valuation from these fluctuations up and down.

653. *Chairman.*] In that way you would not attempt to make the estimate each year?—Upon the average from year to year.

654. You could correct your average?—Yes, as the years roll on.

655. Mr.

655. Mr. *Smollett.*] In the case of a new company, how could you take an average? — We should require to take another line something like it, in its specialities, and adopt that until we had an experience.

656. The expenditure would be very small at first? — Very small. And I find perhaps an average on the receipts, as a deduction for maintenance and renewal, would be preferable to an average on the valuation, because, although the receipts are larger one year, it does not follow the valuation should be larger, because the working expenses might keep on a ratio with the revenue; or they might put on a great deal of rolling stock, and thereby increase traders' profits; it, therefore, does not follow that the valuation would be increased. I find that there is a very strong connection between maintaining the way and the receipts. As the receipts increase so does the maintenance of way, and I think it should be upon the receipts that the deduction should be given.

657. Major *Cumming Bruce.*] The railway would be more used and more worked?—The valuation would not show that, because the valuation might be positively less than the previous year, although the railway had a larger revenue.

658. Have you returned the values to the valuation roll, without any deduction for those expenses of which you have spoken?—Yes.

659. Where are those deductions to be made? —They are granted by the parochial Boards, or the other parties who have the power to lay on the assessments.

660. Would it not be better if the railway assessor was to put in the valuation roll the actual divisible profit of the year's working?—No; that is to say, there should be a rateable value shown by the assessor as well as a gross rental. The roll should show both; it should have the gross rental and the rateable value, and the public bodies who have the power to assess would take this rateable value at once.

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661. The amount at which they are assessed is in no way dependent on the report of the assessor in that case?—No; it just depends on the view these parochial Boards take as to what they should give; they all give different sums.

662. *Chairman.*] You know that in point of fact, they do give different sums?—Yes, they do.

663. What do they range?—From 25 to 40.

664. Twenty-five is the lowest?—Yes, as far as I am aware.

665. Major *Cumming Bruce.*] You give the whole ostensible profit of the working of the line, without these deductions?—Yes; what a tenant would give, understanding that the proprietor had to keep up the way.

666. Supposing the railway owed a very considerable debt, and was paying a high rate of interest, what would you do then?—We do not take that; we assess upon the heritage, and not upon the tenant's profits; what the line would let for. (*The Witness handed in a Table of Calculations.*—Vide *Appendix.*)

667. Mr. *Blackburn.*] I think you agree with Mr. Dod's view, that there would be no difficulty in the assessor of railways making out a column of net value, upon which the rates should be levied?—I quite agree with that.

668. And you think the practical result would be that somewhere from 30 to 35 per cent. ought to be deducted from the gross valuation as it now stands?—Something like that. It would vary in each special case.

669. If companies are now rated on the gross value, and that is 30 to 35 per cent. above their actual value, they are really paying a considerable sum too much?—In point of fact they are.

Mr. JOHN WALKER, called in; and Examined.

670. *Chairman.*] WHAT are you, Mr. Walker? —I am Treasurer of the North British Railway Company.

Mr. *J. Walker.*

671. Your railway runs through a variety of parishes?—The North British Railway intersects, in Scotland, 11 counties and 103 parishes.

672. Can you give us any account of the different rates at which you are assessed in the different counties and parishes through which your railway runs?—I may explain that, before the passing of the New Police Act and the new Prisons Act, in regard to the county rates, we were assessed on the rateable value. The Land Valuation Act did not make any alteration of the system of rating in Scotland, as Assessing Boards, and were still obliged to give deductions. That Act made no alteration in that respect.

673. You are speaking of prison rates and police rates?—County rates.

674. Not all the county rates, but some?— The deduction the company obtained from the county rates was 35 per cent.

675. Was that uniform in all the counties?—I am only speaking in regard to certain counties in which we were principally interested.

676. I mean all the counties; you pass through four or five?—At that time I was connected with the Edinburgh, Perth, and Dundee Company, now amalgamated with the North British; and our only counties of any importance were Fife and Edinburgh. In the county of Fife the deductions were, on land 10 per cent., on houses 20 per cent., and on railways 35 per cent. That is a copy of the notice of assessments in the county (*producing a Document*). We obtained the same deduction from the county of Edinburgh. They had some difficulty in granting us any special deduction; they held that the Lands Valuation Act did not warrant them. The railway company claimed an increased deduction to meet the large expense incurred in maintaining their property as compared with ordinary property. The county having had doubts on the subject laid a case before the Lord Advocate for his opinion. I have here a copy of his Lordship's opinion, in which he mentions that, if it is a matter of fact that the railway is more expensive to uphold than other property, it is quite fair that they should be allowed a larger sum for repairs.

677. Does he use the word "fair," or does he say they are entitled?—The words are, "The justice of the claim depends mainly on the matter of fact, what is the cost of repairs, &c. It is quite

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certain that no deduction was made for the maintenance of the permanent way in the general valuation any more than in the case of ordinary lands and heritages; and as the value of the real subject of a railway is enhanced by the peculiar use to which it is applied, it is only just and fair that if its annual cost is greater than in the case of ordinary subjects, the company should have a corresponding allowance for it." On that occasion the county of Edinburgh granted us 35 per cent. deduction in the case of county rates. I may mention, with regard to the county rates, that that deduction continued to be given to the year ending Whitsunday 1861. The new Police and Prisons Acts then came into operation, and the assessing clauses in these Acts were to the effect that the valuation appearing in the valuation rolls, made up under the 17 & 18 Vict., should be taken for assessments, and there was no power given to counties to grant a deduction for repairs to any property whatever.

678. Did you take any legal opinion as to the construction of that Act?—We have not taken any legal opinion; but I understand it is quite settled law that they cannot give any deduction.

679. At all events you have had none since?—Yes; we have a voluntary deduction in one county of 15 per cent. Last year, when the same question was considered in the Peeblesshire Road Bill, I wrote to the collector of county rates in the county referred to in these terms:—"I have always understood that the deduction of 15 per cent. made from our gross valuation in your county is exceptional, and only conceded on the ground that railway property is more expensive to uphold than ordinary lands and heritages, in respect to which no deduction whatever is made in your county; am I correct?" and he writes at the foot of the letter "correct." Of course, if we had been entitled to it according to law, we should have asked more than the 15 per cent.; but on the principle, that something is better than nothing, we took it. Then, with regard to the poor-rates, which is really the most important assessment in Scotland, as in any other places, the Lands Valuation Act made no alteration whatever in regard to those rates; the boards are still bound to give deductions for repairs..

680. It was not the Lands Valuation Act, as I understand you, that deprived you of the deductions you previously had in reference to prison rates and police rates; it was the New Police Act?—It was the New Police and Prisons Acts.

681. Not the Valuation Act; that reserved the deductions, and you got the deductions, I understand, after the Valuation Act was passed?—Yes, we got them till it came to the New Prisons and Police Acts, but there was an Act passsd subsequent to the Police Act; the Lunacy Act, under which we were entitled to the deductions. Under the Lunacy Act we were entitled to get deductions for repairs; that is to say, it provided that the assessment should be raised in the same way as the assessment under the Prisons Act of 1839; but that Act having been repealed by the New Prisons Act of 1860, of course we were excluded there too, and the County Lunacy Assessment is now raised on the gross valuation, the same as other county rates. In regard to the poor rates, I have made up a statement here to show the deductions to lands, houses, and railways in nearly 100 parishes.

682. The parishes through which your line passes?—Yes; and I may state that the average is somewhere about 10 per cent. to lands, 20 per cent. to houses, and 40 per cent. to the railway. When the first valuation, under the Lands Valuation Act, came into operation, I had disputes with a great many parishes, and in particular with St. Cuthbert's parish, in Edinburgh, and I submitted the accounts of the company to the law agent, and he wrote me the following letter, after he had examined them.

683. Mr. *Blackburn.*] The law agent of the parish?—Acting for the parish. He says, under date 11th February 1858:—"St. Cuthbert rates. Having now carefully examined the accounts of the Edinburgh, Perth, and Dundee Railway, I am satisfied the deduction I proposed of 25 per cent. for maintenance, &c., is too small, and that it ought to be from 40 to 42. I have stated it at 41, and annex a note, showing the rate payable for this year to be 45*l.* 13*s.* 9*d.*, for which I shall send a receipt to-morrow." He was perfectly satisfied on that point in 1858. I produce a notice from a parish in which the deductions are all stated on the face of the notice: lands one-tenth, collieries one-tenth, railways two-fifths, houses and manufactories one-fifth.

684. *Chairman.*] Then, in point of fact, you get substantially, with regard to poor rates, a fair deduction?—In regard to poor rates we get a fair deduction; but it would be far more satisfactory for the railway companies if that deduction were made by the railway assessor, because we have to look after so many parishes, that it is sometimes difficult to keep them right.

685. It involves you in disputes?—We have constant disputes with them.

686. What is the calculation you yourself made of the cost of maintenance?—The cost of maintenance of the North British system of railways on the average of the last ten years is 37 per cent. with a fraction.

687. Substantially, you get rather a greater deduction?—I am talking entirely as to the maintenance. Then we have an allowance besides, for rates and taxes.

688. What is that?—They average from 3 to 5 per cent.

689. There is no parish now in which you do not get a full valuation?—The only parish, I think, where we do not get any allowance is the parish of Perth. They have there a system of assessment called "established usage." They gave no deduction before the Poor Law Act, and that Act gave them power to continue that system of assessment. They have continued to act on it, and no property in the parish gets any deduction. There are very few of these cases in Scotland. It is on the real rent without any deduction. I may mention, that the poor rates paid by the North British Company amount to 71 per cent. of the total rates and taxes paid by them. And in the case of the Caledonian and the Edinburgh and Glasgow Companies, they amount to 65 and 70 per cent., respectively, so that the poor rate should be the basis of all other assessments.

690, Major *Cumming Bruce.*] Can you state the amount of all these various assessments under the head of "Parochial" and "Public Assessments," what they come to upon the gross rental valuation; the total amount of all these various assessments

assessments which we call "Public and Parochial Charges," including schoolmasters' salaries, stipends, and everything else?—We do not hold stipends to be a public burden in Scotland.

691. Minister's stipend?—We have generally held that that is an heritable burden on the property.

692. Leaving them out, what is the amount of per-centage upon the gross valuation in respect of these?—I should think they vary from three to five per cent.; it depends very much upon the parish. In some cases the poor-rates are 6*d.*, and in others 1*s.* in the pound.

693. Sometimes more?—Sometimes they are more; of course, one-half is paid by the occupant.

694. You go through the parish of Dunfermline; is not it there sometimes 2*s.* 6*d.*?—The rate of assessment in Dunfermline is 1*s.* 9*d.* in the pound; one-half on the owner, and the other half on the occupant.

695. On an average of years?—I am speaking of last year.

696. *Chairman.*] You are charged as both?—We are charged both as owner and occupier, and in the parish of Dunfermline lands get 10 per cent., houses 20 per cent., and the railway 40 per cent. We have 8,000*l.* of valuation in that parish. The Edinburgh and Glasgow Company get the same deduction, 40 per cent.

697. In all the other taxes you get no deduction at all?—We get no deduction.

698. Major *Cumming Bruce.*] You pay money according to the value of your property for the repairs of churches, manses, and school-houses; burdens upon the land of the parish; do you not pay any part of that for the land which you occupy in the parish?—Well, in certain parishes, to which the law of the Peterhead case applies, where there is a large town, we are liable for churches and manses, but not for schools or schoolmaster's salary, except on the old valued rent. But in rural parishes we are not liable. I do not think any objection can be taken to that, because we acquired the property with that knowledge; we knew that.

699. Sir *Graham Montgomery.*] I suppose your liability or non-liability depends upon the terms of the disposition to the land?—No, it depends upon the law; it would be a question of accounting betwixt us and the party of whom we got the land. The parish would look to us as the proprietor, in the first place.

700. Mr. *Blackburn.*] If the railway bought the whole estate, they would have to pay the schoolmaster's stipend?—Oh, yes.

701. But if they only acquired a portion of that land they would not become liable?—Quite so, until the valued rent was disjoined.

702. Major *Cumming Bruce.*] Then, in point of fact, the landed proprietor of the parish is liable for certain assessments for which railways are not liable, with regard to repairs of churches, manses, and schools, generally?—In rural parishes that is the case; but I think in the great majority of instances the bargain was this, that the railway company should pay the poor rates and county rates, and that minister's stipend, schoolmaster's salary, and land tax, should continue to be paid by the original proprietor. These were levied upon the valued rent, and until there was a disjunction of the amount represented by the property taken by the company, they could not lay on separate rates.

703. Mr. *Blackburn.*] As a matter of fact, if there is no bargain to the contrary, the railway is liable to contribute to building a new church?—In certain parishes.

704. *Chairman.*] If the rate for building the church was made upon the real rent, and not the valued rent, you would be brought in?—In one case, the North British Company paid about 700*l.* to assist in building a church; but in another case, where they called upon us in a strictly rural parish to contribute to the building of a manse, we said we were not liable, because by law the valued rent was the principle of assessment.

705. Colonel *Douglas Pennant.*] Is that a voluntary contribution, or a compulsory one, the building of the church?—It was by Act of Parliament.

706. Mr. *Blackburn.*] The North British Company have a considerable mileage in England, have not they?—Yes; we have 85 miles.

707. And all the assessments are supposed to be upon the net value, and not upon the gross?—All the assessments in England are upon the nett, or the rateable value, and not on the gross. The same thing applies to Ireland; all the assessments in Ireland are in the same way.

708. Major *Cumming Bruce.*] In the case of assessments for churches, and matters of that sort, it is the valued rent?—In rural parishes: in what they call country parishes.

709. Is it optional to them to adopt the real rent?—In the case of rural parishes they may agree among themselves to raise it in any way they like; but I understand a railway company is not compelled to pay in country parishes.

710. Then, any person or individual objecting to be assessed upon the real rent, you would have a good case for reverting to the valued rent?—I think so, sir.

711. And if he did so revert to the valued rent, the railways would be exempt from the assessment?—If he reverted to the valued rent, of course the railways would be exempt.

712. *Chairman.*] And if it was laid on to the real rent you would be brought in?—Yes, if a burghal parish.

713. Is there anything further you would like to state?—I should just wish to state, to show the progressive increase in the cost of maintenance of way that is going on in the railways in Scotland, that the North British Company's outlay for maintenance of way in 1863-64 amounted to 76,198*l.* as compared with 32,195*l.* in 1859.

714. Mr. *Smollett.*] On the same amount of mileage?—On practically the same amount of mileage; and the shareholders only the other day, last Thursday, resolved that 30,000*l.* a year should be spent in renewing the way and it is certainly a hard case, we think, that when we are spending money to meet the increasing traffic, and of course increasing the valuation, that we should not get an allowance for that.

715. Sir *Graham Montgomery.*] You do not propose to spend this 30,000*l.* in one year?—There will be more spent than 30,000*l.* next year, but only 30,000*l.* will be charged.

716. Mr. *Blackburn.*] It will take 30,000*l.* on an average of years to keep the line up?—Yes; beyond the ordinary maintenance.

717. Major *Cumming Bruce.*] Have you not a project for carrying a very expensive bridge across the Forth, two miles and a quarter over the sea?—There is a Bill before Parliament.

718. You will greatly increase the amount of your

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your outlay; to what would that be charged?—That would go to capital account.

719. No valuation or assessment at all?—If that Bill is passed and our traffic is increased to the extent we anticipate, the valuation on the whole North British system will be increased probably 25 per cent.

720. Colonel *Douglas Pennant.*] You speak of the increase of outlay of late years as compared with the outlay of a previous date, 1859?—Yes.

721. Does the difference between those two sums bear any relative proportion to the difference of the rental value of the railway at those two periods; does the increase in rental value bear the same proportion that the other two sums do of outlay and repairs?—No, sir, the increase on the expenditure is 136 per cent. in five years, while the improvement on the gross rent of the heritable subject was only 25 per cent.

722. I presume that is an exceptional year, arising from a different description of rail being required to meet the heavier traffic, or else arising from the wearing out of all the rails laid down at the same time; there must have been some reason for that large outlay, was there not?—This year is very much about the same thing.

723. Do you think that outlay of 70,000 *l.* will be necessary year by year?—I think the maintenance of way will not be much under 70,000 *l.* a year.

724. For a series of years?—Yes.

725. Mr. *Blackburn.*] One reason of the increase is the average duration of the lines, taking the whole system as coming to somewhere about 14 years since they were first laid down, and they require renewal?—There is a large portion of the line that will require to be renewed.

726. Sir *Graham Montgomery.*] That may arise from a change in the fashion of the rails, because you may not wish to put the old rails on?—Well, we of course do not put down the same quality of rails; I daresay a better quality of rails is put down, but in the long run that is economical.

727. And that accounts for the greater outlay in these years than formerly, in consequence of your putting down a better class of rail?—I do not think the price of rails is very much up on the whole. I think they are just as cheap now as ten years ago; probably cheaper.

728. But of course it is more expensive to fish-joint them than to put them down as they were before?—It is easier to run trains over a fish-jointed line than over an ordinary line; and, therefore, the working expenses are less.

729. After the improvement is completed?—Yes; and, of course, the parishes get all the advantage there.

Jovis, 30° *die Martii*, 1865.

MEMBERS PRESENT:

Mr. Blackburn.
The Right Hon. Edward Pleydell Bouverie.
Major Cumming Bruce.
Lord George Cavendish.
Mr. Dalglish.
Mr. Dunlop.
Sir James Fergusson.
Mr. Leslie.
Mr. Mackie.
Sir Graham Montgomery.
Sir John Ogilvy.
Mr. Smollett.

ALEXANDER MURRAY DUNLOP, Esq., IN THE CHAIR.

Mr. Wm. J. Menzies, called in; and Examined.

Mr. *W. J. Menzies.*

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730. *Chairman.*] You are Agent for Alexander Cowan & Sons, who have large paper mills at Valleyfield, in the county of Edinburgh?—I am.

731. And, as such, you have had occasion to conduct certain appeals from the valuation made of their works?—I have on several occasions had to conduct appeals.

732. And in that way your attention has been called to the valuation of manufacturing property under the Lands Valuation Act?—It has. I have had occasion to make inquiry as to the different items going to form the value of manufactories, and also as to the rents at which similar manufactories actually let in different parts.

733. What is the valuation put upon the works of Messrs. Cowan?—The valuation put upon the works at Valleyfield, exclusive of workmen's cottages, is 1,652 *l.*

734. The premises occupied for the purposes of the manufacture?—The premises are occupied exclusively as manufacturing premises.

735. How is that value assessed?—I hand in a statement which was furnished by the assessor for the county when the Act first came into operation, showing the manner in which the assessment was made out by him. The first item was the water power used in driving the mill, which he valued as worth 7 *l.* per horse power; the next item was the steam power, which he valued upon the gross cost at 7½ per cent.; the next item consists of the fixed machinery which he valued also at 7½ per cent. upon the gross cost; and the next item consisted of the area of the different houses which were used in the manufactory, which he valued as worth 2 *s.* a square yard of superficial area of the floorage.

736. You have mentioned steam power as so much on the gross cost; is that gross cost the cost of the engines?—When the Act came into operation for fixing what was the cost of steam power, and the assessors having ascertained the capacity of the engines, they then ascertained by a fixed rule what was their power of driving, and they ascertained that an engine costs so much per horse power.

737. Then the engine is assumed to be heritage?—The engine; the part of the machinery which produces the steam.

738. Where does the moveable machinery begin?—The whole driving power is heritage, and the moveable machinery is understood to begin at the strap which connects the driving power with the machinery used in the manufacture.

739. What objection have you to this valuation; I understand Messrs. Cowan appealed against it, as not being a fair valuation?—The objections were very various. In the first place the assessor for the county alleges that these data were merely data for the purpose of comparing a mill in the county, which was actually let, with other mills which were in the occupancy of the owners themselves.

740. Messrs. Cowan's mill is their own property?—It is their own property; they occupy it upon a long lease; they are virtually the proprietors, and are assessed as such.

741. You merely give a comparatively small tack duty on the land on which the mill is erected?—Yes.

742. Was the mill erected by themselves?—The mill consisted originally of prison houses, which were erected for the accommodation of French prisoners at the commencement of the century; they are very large and detached, and considerably too large in superficial area to do the work which could be done in a well-constructed mill now-a-days. We got a plan prepared of a mill sufficient to do the work done at Valleyfield, and found it would occupy only three-fourths of the space which the present works occupy. The cost of construction would be 20 *s.* per square yard of floorage. We say, therefore, that to assess us upon the total floorage which we have, being one-fourth too much, is to assess us at 13½ per cent. on the total cost at which we could provide a new mill to do the same work. That is not taken into account at all, and we object, therefore, that the value of the buildings is very much overstated.

743. In regard to works which are let, does the assessor find out from these the ratio of expense per square yard which he imposes on you?—The assessor states that he does so, but we

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maintain that that is not correct in estimating what is heritage. The work which he takes as the basis of his valuation is of a mixed character. It is a mill which is let, the heritage being let with moveable machinery, and he gets the value of the moveable machinery, deducts 7½ per cent. of the value of the moveable machinery from the gross rent, and states the remainder as the value of the heritage. We say that is not a fair way of arriving at the value of the heritage, because the fact of having a going mill is of very great value indeed, looking to the cost of moveable machinery, to the large amount of deterioration which goes on from year to year, and to the little value of which it is when it comes to be actually removed.

744. Are there no mills the rent of which is solely for the heritable subject?—There are one or two in the county. There is Kate's Mill, which I may mention. It was let formerly upon a long lease of a greater duration than 21 years, so that, under the Valuation Act, the rent which was actually paid for it was not the criterion in fixing the valuation. The assessor at that time fixed the annual valuation of it at 337 *l.* 9 *s.* 6 *d.* It has been now actually let, and taking into account the value of the steam power, which is the property of the tenant, and is allowed to be assessable, and adding that to the amount of the actual rent, the rent produced is only 225 *l.*, as against 337 *l.*, the rent formerly fixed by Mr. Patterson when it was let out on a long lease.

745. Are there any mills of the same extent as yours which let and the rent of which is different from yours?—No, there are no mills of the same extent, and it comes to be a very difficult question in stating what value is to be given to the moveable machinery and what value to the buildings. When the subjects are let together, the value is for the whole subject, and it is very difficult to divide it.

746. That 7½ per cent. deduction you mention he made in another mill for moveable machinery, you do not think enough?—To show the fallacy of that valuation, we got a valuation made of the buildings and of the heritable portion of the machinery, and by taking the converse of his system, by valuing the buildings at 7½ per cent. and the heritage portion merely, and deducting that from the gross rent, we brought out a rent for the moveable machinery which amounted, in place of 7½, to 13 or 14 per cent. That was using the converse of his method to ascertain the value of the moveable machinery in the way in which he had ascertained the value of the heritage, clearly showing that there was some value besides the value which the two subjects, if let separately, would have produced; and that value is the value of a going mill.

747. By whom is the assessor appointed?—The assessor is appointed by the Commissioners of Supply for the county.

748. The Commissioners of Supply are the proprietors of a certain amount?—Any proprietor of 100 *l.* of annual rent is entitled to be a Commissioner of Supply; they amount to 171 in number at present..

749. And I believe holders of house property to the extent of 200 *l.* a year are also entitled?—Yes.

750. Are there any of those in that body of Commissioners of Supply?—Yes, there are a few, but they are comparatively very few as compared with those who are only landed proprietors.

751. Is the office of assessor a permanent office?—The assessor is appointed annually.

752. Has your present assessor been accustomed to deal with manufactories?—The present assessor is a farmer in the neighbourhood and he is also a valuator of land, and, so far as I know, he does not pretend to have any knowledge of manufactories, and in fixing the value of manufactories himself he employed a country millwright to make up the valuations for him.

753. To whom is there any appeal against his judgment?—The appeal lies only to the Commissioners of Supply who appoint the assessors.

754. Is there no appeal from them?—There is no appeal whatever.

755. In matters of value? There is an appeal from them to two judges of the Court of Session; is that appeal limited to questions of law?—That is only where the assessor is appointed by Government under the subsequent Act of the 20 & 21 Vict; where the Commissioners appoint the assessor there is no appeal whatever from their judgment to the Court of Session.

756. What is the total value of manufacturing property in the County of Edinburgh?—The total value is about 20,000 *l.*

757. Is the dissatisfaction with the mode of valuing mills and manufactories limited to your clients, or have you any means of knowing whether it is general?—I have heard from several manufacturers that they thought constantly of appealing, and that they would have done so, if they had any chance of obtaining redress.

758. Were your appeals in the cases you have mentioned unsuccessful?—One of them was successful. We convinced the Commissioners of Supply one year that the assessor did put too large a value on the water-power, but the assessor went back to his former valuation, and they have since confirmed that.

759. What mode of valuation would you wish to see established, to correct the evils you complain of?—The valuation is made on different principles in Glasgow, and in other places. In Glasgow the assessor fixes the total value of the buildings and takes 7½ of the value. I have a letter from the Glasgow assessor which explains the principles on which he acts. "In estimating the value of mills and factories in Glasgow, I assume five per cent. on the value of the ground used and occupied for the purpose of works, and 7½ per cent. of the cost of the buildings and fixed machinery as the annual value. The buildings are estimated at from 10 *s.* to 20 *s.* per square yard of flooring, according to their stability and construction." I stated formerly that we estimated the cost of building a new mill at 20 *s.* per square yard of the flooring, which would be sufficient, and that, taking the rent which we are actually assessed upon for our present buildings, it forms 13½ per cent. of what a new building could be erected for.

760. I was not so much asking you about the rules of valuation you would wish to see established as to the machinery by which the value should be put on?—We are desirous that, if possible, there should be a referee appointed, to whom all questions of the value of manufacturing property might be referred.

761. Something like the mode of valuing rail ways and canals?—At present, the Commissioners of Supply being landed gentlemen, and the assessor being in general a farmer, although they are quite competent to value land and houses

houses, they are practically altogether unacquainted with the value of manufacturing property, and are not fitted by education or otherwise to judge of it.

762. Would you prefer the plan, under the Second Statute, by the Government Assessor being made imperative?—We think it would be very advisable that the Government Asssessor should be made imperative, because at present there is a great variety in the valuations which are put upon the same class of property in the different counties. We know of a manufactory which is as extensive as the mills at Valleyfield which is assessed at only one-half of what they are assessed at.

763. Valued you mean, I suppose?—Valued in the valuation roll at only one-half.

764. Mr. *Leslie.*] Is it in the same county of Edinburgh?—Not in the county of Edinburgh.

765. In a county where they have a Government assessor?—Where there is a Government assessor.

766. *Chairman.*] Then you would also desire an appeal?—I think it would be advantageous that there should be an appeal, so that there might be a uniformity in the decisions in various districts.

767. Do you wish an appeal on the rules by which the value is made out?—We should wish to have an appeal upon the actual value.

768. Would you have the judges review the opinion of skilled men as to the actual value they put upon the property, or would you have them only review the legality or the propriety of the mode by which they arrive at it?—There is a considerable difficulty in that case, because the circumstances of particular mills add to or detract from their individual values, and it would be necessary that there should be an appeal as to the actual value which was put upon the subject. A compact mill, for instance, might be built in the county of Edinburgh, and, according to the rules adopted by the present assessor, that mill would be valued at a very considerably less sum than our present valuation, while, on the other hand, the mill would be very much more valuable; it would cost a large sum less to drive it, being compact; it would cost less for labour, on account of the buildings being near each other; the loss of steam would be much less, as at present it has to be carried a long distance, so that, it would actually be more valuable, while, according to the rules adopted by the assessor, it would be valued at a much smaller sum.

769. If you had a skilled man, like the assessor for railways, would you consider an appeal to the judges on these matters of value necessary or proper?—It would not be so necessary, certainly.

770. You would still like to have it; with regard to parochial rates, an abatement is made on your rental, under the Act of 1845?—In practice, in the parish of Pennycook, where the mills are situated, they make the same abatement on all classes of property, 20 per cent., so that in reality there is no distinction made.

771. In point of fact are the repairs necessary to keep up your works as great as the outlay of the same kind on landed property?—I have got an account of the repairs which are actually necessary on an average of years, and I find that the buildings require an annual outlay of 182 *l.* to keep them in repair. From water being used in the manufacture and a quantity of steam being produced, the roofs are constantly rotting, and have to be renewed, and from the buildings being old, and the machinery shaking them, I find that the mason's work requires to be frequently looked after. The water power requires an outlay of 59 *l.* a year to keep it in order, that is exclusive of the risk there is of the dam-heads being washed away, which cost 700 *l.* also to repair them. That has taken place more than once. The steam power requires an outlay of 185 *l.* to keep it in order, and the fixed machinery an outlay of 82 *l.* The insurance is 170 *l.* These items amount together to 678 *l.*, and are at the rate of 41 per cent. upon the value at which the mills are stated in the valuation roll. I may state that we are separately assessed for a reservoir, which is constructed in the Pentland Hills for supplying water driving power, and we pay a rate for that of 182 *l.* 10 *s.* a year, for which no deduction is made in the valuation rolls. That makes altogether 860 *l.*

772. How much per cent. is that on your valuation; 40 per cent. you said?—Forty per cent., exclusive of rates and taxes.

773. About how much per cent. on your valution are the rates and taxes?—I have not a note of the other rates and taxes.

774. Cannot you give an estimate?—It would be less than 10 or 12 per cent.

775. Then say 50 per cent. as a whole?—Yes.

776. Messrs. Cowan are proprietors of land also, are they not?—Yes.

777. Are they assessed for land?—Yes.

778. What is the per-centage of repairs and outlay of maintenance on the landed property?—Well, we consider that five per cent. is about the necessary outlay in ordinary circumstances.

779. Have they any houses; I thought you mentioned workmen's houses as not included in the valuation of the works?—Yes.

780. What expense are they at yearly for maintenance of these?—I have no note of the necessary expense of those, but it is very much smaller than the mill property.

781. Do you hold that you are put on a very different footing in point of the justice of the assessment in the same deduction being made equally?—We pay a very much larger proportion of the tax upon our yearly value, the yearly value of our subjects being less in proportion to the rent than the others.

782. Until the year 1860 you got a deduction for repairs and maintenance on the county rates also?—Yes.

783. That is now discontinued?—The county rates are now assessed on the gross value.

784. Sir *John Ogilvy.*] Do you say that 20 per cent. discount is allowed on all descriptions of property?—That is in the individual parish of Pennycook; it is different in different parishes.

785. That is what you stated as being over all?—Yes.

786. Mr. *Blackburn.*] I think you mentioned a mill that was valued at 337 *l.*, and afterwards let at 225 *l.*?—Yes.

787. Was the tenant bound to keep it in repair; who paid that 225 *l.* rent?—It was let upon a 19 years' lease; it was part of an entailed property; it was let without the moveable machinery, and the tenant had to put in the machinery himself, and to keep the buildings in repair.

788. Then if his maintenance cost as much as yours, 40 per cent., the gross valuation at 337 *l.*,

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including the maintenance, was not, after all, in excess of the net valuation of 225 *l.* when the tenant erected the buildings?—Taken in that view, it was not.

789. Then you think the present way of valuing on the actual rent is not fair, because, according to the terms of the lease, either the tenant is bound to maintain, or the landlord is bound to maintain, and the rates may be varied according to the terms of the lease; the actual value is the same?—I do not quite follow you.

790. Supposing a landlord were bound to maintain, it would have been assessed at the rateable value of 337 *l.*; but if it was let with an agreement for the tenant to maintain, and the rent was only 225 *l.*, the rates were chargeable only on the 225 *l.*; is not that the case?—Yes, that was the amount at which it was actually rated after being let.

791. *Chairman.*] Then the assessor did not take into view the obligation to maintain the buildings as a consideration which formed part of the rent?—No.

792. Mr. *Blackburn.*] You are of opinion, I suppose, that there ought to be a deduction made for the maintenance, and that the rate ought really to be on the net value and not upon the gross?—Yes, I think so.

793. Mr. *Leslie.*] It is your opinion, I apprehend, from your evidence, that it would be a great improvement if a uniform system was adopted over Scotland, each county having the services of the Government assessor?—Yes.

794. *Chairman.*] Is there anything I have omitted to ask you that you would wish to state to us?—I find I have omitted to give in a schedule which I had prepared showing the value of water power in different parts of Scotland. We are rated seven per cent. per horse power in the county of Mid-Lothian, and I have ascertained that in Aberdeenshire water power is valued at 3 *l.* per horse power.

795. I suppose that depends on the competition for water power?—Yes, our argument is that 7 *l.* is an unfair estimate on the value of it.

796. You mean unfair in the county of Edinburgh?—I can give an instance in the county of Edinburgh where a fall of water is actually let at a sum which, with the buildings and machinery of a corn mill, is only 3 *l.* 12 *s.* 6 *d.* for the available horse power. The argument of the assessor is that it would cost more than 7 *l.* per horse power to produce the power in steam; but we say that the mills having been there before steam was available for driving, it is unfair to value us at what it would cost to produce the value in steam, and that the rate for the water power ought to be the same at which it is found to be actually let in the neighbourhood. In Aberdeenshire, which is as favourably situated as we are, a mill was lately let which had a fall of water estimated at 42 horse power. There was also 3,000 *l.* worth of buildings and fixed machinery. Rating these upon the data fixed by the assessor for the county of Edinburgh, the mill ought to have been worth in the market a rent of 519 *l.*, but, owing to the circumstances of the trade at present, and other circumstances, it is actually let at 175 *l.* There is also a mill in the county of Edinburgh, which is stated in the valuation roll at upwards of 1,000 *l.* The trustee upon the estate has been trying for some time to get it let, and he is willing to let the whole thing with the moveable machinery, which is of very great value, at a sum which would produce for the heritage only half of what it is actually rated at in the valuation roll. I was consulted some time ago about the valuation of a mill in Stirlingshire, where the inspector of the poor complained that, following the data fixed by the Edinburgh assessor, the valuation ought to have been very much more. It was stated in the valuation roll at 200 *l.*, but, following the principles adopted by the Edinburgh assessor, it should have been rated at 393 *l.* The Commissioners of Supply, upon carefully reviewing the whole circumstances, fixed the valuation at 260 *l.*

797. Mr. *Blackburn.*] Where was that?—It was a mill near Denny, occupied by Mr. Duncan (*The Witness handed in the Schedule marked* (*A*)—Vide *Appendix.*) I have also made a note to say that another class of property in the county is not valued at the same rack-rent at which the mill properties are valued. We have a mansion house in the county let at 450 *l.*, which is let as a school, but still it is let at 450 *l.*, and, with that exception, although there are several mansion houses very much larger in extent, there is no other which is rated in the valuation roll at a higher sum than 200 *l.* I have also had put into my hand a report of the system adopted in Lancashire, where there are very extensive mills, from which it appears they resolved that a deduction from the gross estimated rental for repairs, insurance, and other expenses to arrive at a rateable value, should be as follows: Land without buildings, 5 per cent.; land with buildings, 7½ per cent.; houses, 15 per cent.; cottages under 6 *l.* rental, 20 per cent.; and mills 25 per cent. I have also prepared a short statement showing the history of the valuation of mill property in the county of Edinburgh, and what has been done from time to time. (*The Witness handed in the tables marked* (*B*) *and* (*C*).—Vide *Appendix.*)

Mr. William Hay, called in; and Examined.

Mr. *W. Hay.*

798. *Chairman.*] You are the Secretary and Law Agent of the Dundee Parochial Board, and also a Commissioner of Police for the borough of Dundee?—I am.

799. And as such you are well acquainted with the mode of carrying on the assessment?—Yes.

800. What is the population of your borough?—About 100,000.

801. What is the mode of rating for the support of the poor?—Since the late Act, 24 & 25 Vict., changing the mode of rating, we have taken a classification from the Board of Supervision. That was fully discussed and considered at the time before Sir John MacNeil and the Board, and I understand it is now generally adopted in all subsequent applications for classifications.

802. What is that classification?—We take the sum on the valuation roll, and before apportioning the amount for assessment, we deduct 20 per cent. from all classes except agricultural subjects.

803. What

803. What do you deduct from agricultural subjects?—Five per cent.

804. May I ask what is the extent of the agricultural property in the parish?—The rental is only about 8,000 *l.*

805. What is the total rental of the whole parish, including the 8,000 *l.*?—The total rental of the borough of Dundee is 258,614 *l.*

806. Mr. *Blackburn.*] Only 8,000 *l.* of that was agricultural?—£. 8,000 was agricultural.

807. *Chairman.*] Then you do not include in what you are now telling us the adjoining parishes of Liff and Benvie, constituting the suburbs of Dundee?—The 258,000 *l.* includes about one-fifth. I should say the gross assessable value in the parish of Dundee is about 218,000 *l.*, and of that about 8,000 *l.* is agricultural rental.

808. You were going on with the classification?—Then taking that deduction from the valuation roll we put the subjects into three classes. We classify lands under the 36th section of the Poor Law Act. We take Class 1 to comprehend all lands and heritages except quarries, fishings, and railways, and agricultural subjects. In class 2 we comprehend quarries and railways. In class 3 we put agricultural subjects, including market gardens and nurseries.

809. Now, will you give us the different deductions on these different classes?—We charge class 1 a uniform rate, a full rate under the aforesaid deductions of 20 per cent. and five per cent. In class 2, comprehending quarries, fishings, and railways, we charge it upon three-fourths.

810. Mr. *Blackburn.*] That is 25 per cent. off?—Twenty-five per cent. off.

811. *Chairman.*] Five per cent. more than the others. You take 20 per cent. off all, and then you give another five per cent.?—It comes to this. We first give 20 per cent. off all kinds of property, and the five per cent. off agricultural subjects before the classification.

812. Mr. *Blackburn.*] Except the agricultural?—It is five per cent. for the agricultural. Then we classify them in three classes. We give the quarries, fishings, and railways three-fourths of the rates upon class I., making class I. a full rate. We class the quarries, fishings, and railways at three-fourths, and the agricultural subjects, including market gardens and nurseries, at one-third the full rate. It comes to this in figures. According to our rate last year on land used for agricultural purposes, market gardens and nurseries, the proprietors half paid 11 *d.* per pound. There is no classification with regard to proprietors; but the classification only refers to occupants. The proprietor pays a tax upon the full value under the 20 per cent. or the five per cent., according to the two classes I have mentioned. The classification only relates to the tenants. The tenants and occupants of farms paid $3\frac{3}{5}$ *d.* per pound last year under the classification, that is, one-third. Then the quarries, fishings, and railways, the proprietors paid 11 *d.* per pound for the one-half, and tenants and occupants $8\frac{1}{10}$ *d.* On houses, factories, and all other property, proprietors pay one-half, or 11 *d.* per pound, and the tenants or occupants $11\frac{2}{5}$ *d.* That arises from the classification.

813. *Chairman.*] Then, do you divide the total sum to be assessed for the poor rate into two halves, and lay the one-half upon the proprietors according to one valuation, and the other half on the tenants according to the other valuation?—Yes, the proprietors pay the one-half on the above deductions, and the tenants the other, according to the classified valuation.

814. According to the valuation, subject to deduction?—Subject to classification.

815. And a different deduction according to the class?—Yes; the proprietors pay the same in all classes.

816. Then you give no more deduction to the proprietors of houses or mills than you do to the proprietors of agricultural subjects?—None, except the above deduction of 20 per cent. and 5 per cent. respectively; we hold the actual rent received by the proprietors the same in all classes. With regard to the farm-tenant, we take one-third of the rental, which is considered a fair mode of arriving at his ability to pay.

817. Then, the classification is rather a substitute for your old mode of means and substance; it is a mode of getting at an estimate of a man's capacity to pay, not so much as a rate upon the property, at least as you view it?—To pay the poor rate. We think, so far as the property is concerned, the same rental in all classes is a fair criterion for valuation. With regard to the tenant-farmer, it would be very hard, we think, to take his full rental as a measure of his ability to pay poor's rates.

818. That is to say, if you take the rent paid by the tenant of an agricultural subject, as compared with the rent paid by the tenant of a shop, or the tenant of a manufactory, it would give a very unfair share as compared with his means?—That is our view.

819. How do you deal with docks, and mills, and manufactories; have you any special mode; how do you get at the valuation?—The harbour is valued by the borough valuator, who values all the other subjects in the borough; he takes the annual income, deducting one-third as tenants' profits, and he places in the valuation roll the two-thirds of the income as the value.

820. As the sort of rent of the heritable subject?—That is the mode he adopted.

821. And he applies that equally to the docks and the harbour?—He takes the docks and harbour as one. The mills are generally in the hands of proprietors, and there is scarcely any criterion to arrive at the value of the rental; I understand he takes the full cost of the buildings, and the fixed machinery at $7\frac{1}{2}$ per cent. on the cost, excluding the moveable machinery in the mill, and adds the feu duty of the ground.

822. How are your police rates assessed?—We are under the Police Act, 13 & 14 Vict. c. 33, and assess upon a full rental; the valuation roll without any deduction.

823. And without any classification?—Without any classification, except under a recent Act, the Nuisances Removal Act, s. 67 (the 19 & 20 Vict. c. 103). There is a power given there to tenants of agricultural subjects to apply to the sheriff to have their assessments paid upon a reduced amount, something like the mode we take in the poor's rate. And in Dundee that has been done by the agricultural parties, and it has been reduced to 4 *d.* per 1 *l.*, that is one-fourth of the ordinary rate.

824. Are the police rates divided between the proprietor and the tenant?—They are all upon the occupants. There is no police rate upon the proprietor. Last year the valuation in the borough of Dundee was 258,614 *l.* 6 *s.* 1 *d.*; of that sum we take off 15,574 *l.* 18 *s.* for churches and

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and educational institutes not assessable under the law, leaving a nett assessable basis of 243,039 *l.* 8 *s.* 1 *d.* Our rate is 15 *d.* in the 1 *l.* just now for general purposes. It produces 14,825 *l.* 15 *s.*, and the agricultural portion was 91 *l.* 1 *s.* under the reduced scale, making together 14,916 *l.* 16 *s.* as the police rate of last year. Now, by the Police Act, we are restricted to 18 *d.* per 1 *l.* in assessment for general purposes, and if the nett value was to be inserted in the valuation roll, we could not raise our assessment without some provision made to enable us to rise in the rate per 1 *l.*

825. That rate to which you are limited was calculated on the gross rent?—It is so now.

826. And it was so meant to be calculated in the Act; and if you made it the nett value, the same amount would not be produced, and so the restriction would not be applicable?—We could not raise our money.

827. In the poor-rate valuation, do you consider that deduction of 20 per cent. a compliance with the provisions of the Act of 1845, for giving a deduction for repairs, rates and taxes?—Yes.

828. And you assume that the repairs and the rates and taxes of every proprietor are the same?—We take an average all through, except that to agricultural subjects we give five per cent. We think that is fair for the farmhouses and any other necessary erections about the farms.

829. Otherwise you think all other classes are very nearly equal?—Yes.

830. Now, about the gas and water companies; how is that managed?—We have no definite mode of assessing.

831. Have none of them applied to the general railway assessor, as they may do?—No, they have not. I think it would be a good course for them to take.

832. They have not done it?—They have not done so, neither have the harbour trustees.

833. How do you get at the valuation of gas and water works?—Well, we continued the old practice, to take the fair rental for the heritage subjects.

834. An estimate of what rent you might expect; you found some difficulty in estimating the gas pipes, did not you?—Yes. We think the water and the gas companies cast a very great burden upon the police assessment by opening the streets and destroying the pavements.

835. Is that borne in any respect by the parish rates; are not these expenses borne by the companies who open the streets?—Certainly, they fill them up, but they cannot make them in any way equal to the original road.

836. It sinks down?—It costs at least 400 *l.* a year, besides what we get.

837. Have you any suggestion to make as to improving the present system under the Valuation Act?—Well, it appears to me that if you make a uniform valuation, to be taken in all circumstances for local or county rates, you would create some difficulty. Take the water or gas companies' case, or the agricultural subjects, where we have a road tax, say of 3 *d.* or 4 *d.* per pound; it would be very unfair, in a case of roads or streets running through an estate bordering on the town, to say they should only pay one-fourth of the road tax for making and repairing these very roads. That, we think, would be inequitable, whereas, for general police purposes, such as watching and lighting, it seems to be fair to give them a deduction. It appears to me that every county or local authority ought to have some right of classifying the rate according to the circumstances of each tax and the circumstances of the parties.

838. Would you leave that power to the parties who impose the assessment, or would you give such a power to the assessor making the valuation?—Well, there ought to be some better mode of appeal, some mode of review. Just now it is very unsatisfactory.

839. What appeal is there from the borough assessor?—There is no appeal from the borough assessor, except to the magistrates of the borough.

840. And nothing beyond them?—Nothing beyond them.

841. Their judgment cannot be reviewed?—No. The recent Amendment Valuation Act suggests that the Government assessor ought to be employed in these matters, and that would be the most convenient form, and in that case there is an appeal.

842. You would prefer that?—Yes.

843. Whether the Government assessor or the borough assessor, you would desire some other appeal than merely to the magistrates?—Most certainly; we should require an appeal.

844. You would like an appeal, such as there is now from the Government assessor to two Judges of the Court of Exchequer; is that what you mean?—Something like that; and I think any ratepayer ought to be entitled to object to a valuation of another ratepayer of the town.

845. Anything that throws an unequal burden on him by relieving other people?—I think so.

846. Is there any other improvement which you think would be desirable?—There is one thing I might mention. We find a difficulty, practically, in levying the parochial assessments and the police assessments, arising from the long delay in making up the valuation roll. The valuation roll is not closed till October of each year, whereas it is to take effect at the preceding Whitsuntide. I think section 12 of the Valuation Act says it is only after it is certified and made up that it shall be in force. There are doubts entertained whether any assessment can be imposed between Whitsuntide and the date of making up the roll. I should therefore suggest that that doubt ought to be removed by a declaration that assessment may be imposed on the valuation roll to be made up during that year.

847. That is to say, it should be a good assessment, although made upon a roll which has yet to be made up?—Just so.

848. And the assessment could be disposed of afterwards, when the roll is completed, according to that roll?—Yes; at present there is a large item of expenditure on the ratepayers, in forcing the town clerk to furnish a copy of the valuation roll to the parish. It is an enormous labour in a place like Dundee; in fact, it is impracticable to do it in time for the assessment. We have to get it from the valuators beforehand.

849. What suggestion do you make as to that?—I would suggest that the valuator should be entitled to give access to the police and parochial authorities to make up the roll.

850. To make copies, you mean?—Yes, so as to be ready as soon as possible to levy the assessment.

851. Of course he cannot do that until all the appeals are settled?—But after all the appeals are settled we find the practice to be, that the roll

roll is sent to the town clerk, and it is sometimes two months before we get it. We have to borrow money from the bank in the meantime to relieve the poor.

852. You cannot levy your rate till you get the roll?—No; the consequence is, we pay a heavy interest till we get the assessment.

853. Mr. *Leslie.*] How many entries are there in the roll in your parish?—Perhaps about 30,000. It is an enormous document. We have been sometimes till the month of December until we have finished.

854. Mr. *Blackburn.*] You classify all your rateable property, and take deductions off of every class; 5 per cent. off the lowest, 20 per cent. off the next, and 25 per cent. off the last; is that right?—Yes, that is the classification.

855. What is the advantage, when you take a deduction off every class, from taking a deduction from the lowest class; does not that oblige you to raise a higher rate in the pound to produce the same sum of money?—The one-half of the assessment is laid upon the proprietors without classification; classification only applies to the occupants' half.

856. Then it is upon the gross, and the proprietor, although he may be put to great expense, to the extent of, say, 50 per cent., has to pay upon the gross without any deduction?—Before assessing anything, 20 per cent. is taken off.

857. Sir *John Ogilvy.*] And before you classify it?—Before you classify it 20 per cent. is taken off.

858. Mr. *Blackburn.*] All round?—Yes, except agricultural classes. Twenty per cent. is taken off all round, and 5 per cent. off agricultural subjects.

859. In that case the difference is 15 per cent. between agricultural subjects and the other classes?—Fifteen per cent. deduction off the proprietors.

860. Therefore you have to raise a heavier rate per pound to produce the same money than if you did not take off that 5 per cent. which applies equally to all classes?—It is first 5 per cent. all round, and then 15 per cent. off another separate class. The difference between the agricultural and the other class is 15 per cent.

861. If that 5 per cent. was not deducted, a lower rate per pound would produce the same money, would it not?—Of course the larger the basis the less the rate per pound.

862. It does no good to any parties to make that deduction of 5 per cent., seeing they would have to pay upon a heavier rate in the pound than they otherwise pay?—If it was done all round it would be the same thing.

863. That deduction is merely colourable; it is in practice no relief?—If you deduct nothing from any party, it comes to the same thing if the cost of maintenance was alike; but you observe the classification upon tenants is different from that.

864. How is it that quarries, fishings, and railways are classified as one expense; what is the expense of maintaining a quarry?—It was more the Board of Supervision's classification. We have only one quarry in the borough. It is a very small affair, say, not 100 *l.* a year.

865. Still there is no principle that you are aware of why it should be classified with an expensive thing like a railway?—No; but in judging the railway value, I understand the assessor deducts before he enters in the valuation roll a certain amount of working expenses, while the quarry is inserted at the annual rent.

866. The wages paid to the people are not part of the profits; of course that is not included in the quarry?—In the case of a quarry they take the actual rental.

867. The party would not pay the rent and wages besides; you must deduct the wages first, and then pay the rent afterwards?—We classify the quarries in consequence of that; I take the rental of the valuation roll for quarries, whereas the rental is not taken in the railways, because there is a deduction by the assessor in fixing it.

868. The assessor for the railway brings out the amount which a solvent tenant would give for the railway from year to year, and so he does for the quarry?—We give the railways practically 20 per cent. and 25 per cent.; with the tenant's half it comes to about 33 or 34 per cent. from the valuation.

869. I thought you said it was only 25 per cent.?—There is 20 per cent. before the classification commences. The first general deduction is 20 per cent., and then by the classification we take 25 per cent., but that 25 per cent. only affects the tenant's half; it would be about 33 per cent. in the whole.

870. Mr. *Dalglish.*] You take off land 5 per cent. first? — Five per cent. for repairs and insurance.

871. How much for houses? — Twenty per cent.

872. For quarries?—That is 20 per cent.

873. And for railways?—That is 20 per cent.

874. Then, what is the next deduction you make?—On railways, quarries, and fishings, we take off 25 per cent.

875. Twenty-five per cent. off the item?—Off the nett.

876. Off the nett, with the 20 per cent. deducted?—Yes.

877. Then, with the quarries, you take off 25 per cent.?—That is one-fourth.

878. And the same off railways?—The same off railways.

879. And what off houses?—We take nothing off houses.

880. Supposing the land let for 100 *l.*, you bring it to 95 *l.*; houses that let for 100 *l.*, you bring to 80 *l.*; quarries that let for 100 *l.*, and railways you bring to 60 *l.*?—Observe, you must distinguish between the proprietor's half and the tenant's half.

881. That is what I want; that comes afterwards; we have brought out 95 *l.* for land, 80 *l.* for houses, and 60 *l.* for quarries; now, how do you assess on these classes?—At the same rate.

882. What rate is that?—Do you mean on quarries, fishings, and railways?

883. Take the land first?—Eleven pence in the pound.

884. Eleven pence in the pound on 95 *l.*?—Yes.

885. Then, that is the landlord's?—The landlord's.

886. And how much is the tenant assessed on that?—3½ *d.*

887. Then on houses?—The proprietors are assessed 11 *d.* in the pound on that sum.

888. And what are the tenants assessed?—11⅔ *d.*, arising from the classification of the agricultural subjects.

889. What is it for quarries?—Proprietors, 11 *d.*; tenants, 8$\frac{11}{20}$ *d.*; that is for poor's rates.

890. Then, land is assessed 14⅔ *d.* between the landlord

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landlord and the tenant; houses are assessed $22\frac{2}{5}$ *d.*; quarries, $19\frac{11}{20}$ *d.*? — Yes; that is for poor's rates.

891. How do you assess them for roads?—The general police assessment includes the streets within the borough.

892. What is the police assessment?—The police assessment is levied without deduction at all upon the occupants; only with the exception of the agricultural subjects, as I have mentioned, under a recent Act, where the sheriff has power to reduce the tenants' share of the agricultural subjects to the extent of one-fourth, and that has been done.

893. You do not reduce any other subjects?—Nothing, but what are under a special clause in the Act 19 & 20 Vict., 1856.

894. Sir *James Fergusson.*] I do not think you explained on what principle you make no deduction from the proprietors; you make no classification of the proprietor's assessment?—Of course, the principle is fixed by the Board of Supervision, but I understand it to be that if a proprietor receives 100 *l.* rent from any subject, it is the same value to him except perhaps as regards the maintenance of it.

895. Yes, but you make an assessment on his land, not on his receipts, do you?—The rental is taken.

896. Then have you not considered the income of the proprietor, as represented by the rent, is liable to contingencies in respect of arrears, renewals, and repairs?—That is a fair question for consideration; hitherto it has not been done; 5 per cent. is the only amount he receives.

897. I do not think you said to whom you would entrust the office, supposing the system of general classification was taken; I do not think you said to whom you would entrust the office in the first instance?—I think the borough authorities ought to superintend the borough rates, and the Commissioners of Supply the county rates.

898. With appeal?—With power of appeal, I think so.

899. Do you propose that the assessment should be made upon the roll before it was finally made up?—No, sir; what I mean is this; under the special terms of the Valuation Act, section 12, it is doubtful whether there will be a roll at all in existence until October. The words are, "And such valuation roll shall then be in force." And it is doubted, a doubt is raised by the Board of Supervision themselves, whether an assessment imposed between Whitsuntide, when the old roll expires, and October, when the new roll is declared to be in force, is a legal assessment.

900. What did you propose as the best plan with regard to assessments made before the new roll was made out?—I think it is sufficient to say any assessment imposed before the roll is finally completed should be held to be an assessment imposed on the terms of that roll so completed; of the roll that is being completed.

901. You say the roll is not made up till October; how can you make an assessment on a roll that is only in course of being made up?—It is very easy; you could impose, say 10,000 *l.* to be levied on the parties liable according to the valuation roll to be completed for the year.

902. It would not be exigible until the roll was complete?—The rate could not be fixed.

903. And, of course, it would be subject to all amendments of the roll that might be made on appeal before that time?—I understand so; it is merely a technical objection that has been made.

904. *Chairman.*] You want to be prepared to levy your rate the day after it is due?—Yes.

905. Mr. *Leslie.*] Might you not levy so much on account?—Oh, no; we wish to levy nothing, but merely impose. It is a difference between imposing an assessment; it is levied in the terms of the roll when complete.

906. *Chairman.*] You want to be in a condition immediately to levy?—It would give us about three months' start, and save us about 150 *l.* for interest alone.

907. Does it take you three months to impose?—It takes from May to October.

908. Supposing the roll is finished in October, how long would it be after that before you began to levy your rate?—If we did not just now get accommodation from the valuator, under a private arrangement, it would be the month of December.

909. Mr. *Mackie.*] Your assessor at Dundee, for local rates, is not the Government assessor?—He is for the borough, but not for the whole county.

910. Is there no appeal to the Judges in Exchequer from his decision?—There is no appeal in the borough, except to the magistrates. There is an appeal for the railways and canals.

911. Under the Valuation Act is there no appeal to the Court of Exchequer?—There is an appeal in cases of railways and canals.

912. Not with regard to other property?—I do not understand so.

913. Sir *John Ogilvy.*] If you take the Government valuator there is an appeal?—Oh yes.

914. Mr. *Mackie.*] That was the question I asked you; you say there is no appeal in Dundee from the assessment, as arranged by the Commissioners of Supply in the borough?—I find there is an appeal, he being the Government surveyor.

915. Then your other answer was wrong?—Yes.

916. There is an appeal?—There is an appeal under this recent Act.

Mr. James Dunlop Kirkwood, called in; and Examined.

Mr. *J. D. Kirkwood.*

917. *Chairman.*] You are Inspector of the Poor for the parish of Govan, Glasgow?—Yes.

918. And you have been so for many years?—Fifteen years.

919. I believe you are also editor of the "Poor Law Magazine," and you are very well acquainted with all the Poor Law administration?—Yes.

920. What is the rental of the parish?—The parish of Govan is very nearly a burghal parish. The rental for the last year exceeded 435,932 *l.*, and only about 15,000 *l.* would be for land rent.

921. What is the superficial extent, do you know?—It will be somewhere about 8,000 acres; I think not much more. It is about six miles, the longest, by three miles, the broadest.

922. What

922. What is the population?—Upwards of 100,000 at the last census, and I estimate it now at 125,000; it is increasing very rapidly.

923. What different classes of property have you?—We have a sprinkling of all classes of property, beginning with land and ending with the highest class houses, passing through public works, railways, canals, harbour works, and all classes of shops and dwelling houses, banks and all.

924. In what way do you give effect to the provision of the Act of 1845 for making deduction of rates and taxes, and the expense of repairs and maintenance?—The mode of assessment for the poor in Govan was laid on first in 1825, under the Acts then in use, and at that time the heritors made a rule that they would give 7½ per cent. deduction from the gross rent of land, and 12½ per cent. from all other kinds of property. There were no railways then, of course. When the new Act came into force, in 1845, the same principle was adopted. The whole land property in the parish gets 7½ per cent. off, and that equally to landlord and tenant.

925. Major *Cumming Bruce.*] Divided between them?—Seven and a-half per cent. is taken from the gross rental at first.

926. *Chairman.*] You value each property, and then you lay the assessment of that property, one-half on the landlord and the other half on the occupier?—Precisely. Then, for house property, including public works, railways, canals, and all other such works, 12½ per cent. is the deduction allowed. The rate is levied in the same way, one-half from the proprietor and the other half from the tenant, so that, in point of fact, the deduction amounts to nothing at all; the only effect it has is to make the land pay considerably more than the house property.

927. You do not attempt to value as between house and house, or mill and mill, but merely between these two great classes, land and houses?—That is all, and it is a difference dying out every day, because the land rent is decreasing every day.

928. Sir *John Ogilvy.*] The land rent is being extinguished?—It is being extinguished entirely.

929. *Chairman.*] Are all county rates taken without any deductions at all?—Entirely so; and all the local prison and police rates are paid without any deductions off the gross rental.

930. Do you see any reason for making a distinction between different kinds of rates?—I do not; I do not see any reason why the poor's rate should not be assessed on the gross rental; in point of fact, I see a great advantage in its being assessed upon the rent paid by the tenant to the proprietor. The advantage I see would be this, while the general bulk of our ratepayers are quite content and satisfied with the mode, the great companies, the railway companies, the canal companies, the corporation water, the Clyde navigation, and other companies are not content, but they come up year by year with demands for further deductions. Those demands we have always resisted; we have never yielded to them, but rather than incur the cost of an action in the Supreme Court (which, even if we gained it, would be considerable), we have compromised the matter with them, the effect of the compromise being that they might obtain an advantage of 5 or 6 per cent. further deduction, as compared with house property.

931. That is the compromise you have made?—It has been a sum accepted and not a per centage deducted at all; we would not admit that principle.

932. You would be saved all that unpleasantness by taking the gross rental, but would not you be also saved it by the public officer who makes the valuation fixing the deduction, and so you would not come into contact with the companies at all?—You will observe that the railway and canal companies are assessed by the assessor appointed by Government, Mr. Dods; Mr. Dods has never afforded us any information upon the principles which led him to make up his assessments.

933. I think you will get that, when the proceedings of this Committee are published?—We have been going on for 10 or 11 years; we have been put to expenses with regard to appealing valuations to Edinburgh, and we have got no satisfaction after all; we should like to know exactly how it is made up.

934. Assuming that it was well done, all the trouble and quarrels you complain of would be saved you in the one way as in the other?—Allow me to point out this, the system of giving one general deduction is not in accordance with the reading of the Act as laid down by the Court of Session. The Court of Session in the recent case of the Glasgow Gas Light Company *v.* Adamson, decided that you are bound to value each property and ascertain the actual cost of upholding each property. Now, that property changes year by year, and the labour of making annual inquiries would be such that I think it could not be overtaken.

935. What case was that you were just referring to; was it a recent case?—It was the case of the Glasgow Gas Light Company against Adamson, and is dated 4th March 1864.

936. Have you, in obedience to the decision of the Court of Session, set yourselves to carry out that rule?—We have not.

937. Right Hon. *Edward Pleydell Bouverie.*] You could not do it?—It would be impossible.

938. Major *Cumming Bruce.*] In order to carry out that rule, how many separate examinations should you have to make?—The number of ratepayers upon our roll exceeds 25,000. There are not so many properties, but there are 25,000 ratepayers whose claims would have to be ascertained.

939. And you say it would be impossible to do that?—No parochial board would undertake the work.

940. *Chairman.*] Have you any other objections to the mode of rating railways and canals?—There is one very great objection with regard to the railway stations. There are very large stations in our parish, both the Glasgow and South Western, and the Caledonian have large stations, and at present the Valuation Act lays down that the assessor ascertains the cost of these stations, and he takes 3 per cent. upon that as the annual rental appropriated to the stations. Now the same area of ground occupied by a factory or other similar work would yield us from 5 to 7½ per cent. on the cost as rent, so that, in point of fact, there is a large and valuable portion of our parish appropriated to the upper ward districts or other places through which the railway runs, and we thereby suffer serious loss.

941. You think that property should have a fair per-centage on the outlay assessed, according to the corresponding value of other property in the neighbourhood?—I have no objection to the principle

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principle of assessing a per-centage upon the outlay, but what I say is, assess the per-centage upon the outlay we should get from a similar subject in private use.

942. You would let the stations be kept to the same general rule, if the rate was made a more fair rate?—A more fair rate.

943. Three per cent. might suit some parts of the country, a station, for instance, in a moor-land district, but it would not suit you?—It is less than half what it should be in our parish.

944. Therefore, that should be left to the assessor to fix it fairly, according to the value of land in the parish where the station is?—I think so.

945. What you call station, extends to the whole siding and rails?—In my opinion, it does; but some years ago, when we appealed against the valuation of the South Western station, and I employed Mr. Martin, the civil engineer, to value it, he put a very large value on it; but we were told by the Court that the sidings were part of the line, and we only got the value of the site of the buildings of the station, and the cost of the buildings. The sidings did not form a portion of the valuation.

946. I think from the evidence Mr. Dods gave us they are always included?—This, that I refer to, took place in 1856.

947. Do you assess the property of the Clyde Commissioners?—Yes.

948. Is the assessment for the ground recovered from the water, or do you assess them for the navigation of the river?—We assess them neither for the ground taken by them and thrown into the water-way, nor for the old water-way itself. The Court of Session have decided that any ground that the tide flows over is not assessable. We assess them entirely for the wharves and the sheds.

949. Then they have some property of that description?—They have very extensive and valuable property; it is entirely for the quays and sheds.

950. The Glasgow quays come down into your parish; your part of the harbour?—All the south side of the harbour of Glasgow is in the parish of Govan.

951. Right Hon. *Edward Pleydell Bouverie.*] On what principle do you assess them, what do you take as the value of the wharves?—The assessor gets the annual income, he deducts the cost of up-keep and the share proportionate to the harbour, as they call it. The accounts are made out so that the dues for each are shown, and this leaves the exact sum which belongs to the wharf and shed dues, and from that, after certain deductions, he finds the annual value.

952. Mr. *Blackburn.*] I think you stated in your opinion that no Parochial Board should have the labour thrown upon it of making the deductions in the valuation roll?—Yes.

953. It is your opinion that the assessor should make these deductions in the roll, and that the Parochial Board should take his result?—If it is thought proper to make deductions at all; my opinion is against making any deductions.

954. Do you think whether the man is able to net out of his property only 50 per cent. of the gross value, or whether he is able to net 100 per per cent. that he should pay the same rate?—The rental of a subject is what it is let for; I have no right to inquire into the proprietors' profits.

955. But supposing it is not let; for instance, take a wharf or a railway, if it is not let, how are you to value it; are you to value it at the gross produce, or what it is really worth, and what a tenant would give for its maintaining?—What a tenant would give for it without maintaining. I hold the rent includes maintenance, as well as proprietors' profits.

956. If the maintenance costs 50 per cent. of the gross rate, the proprietor would in the one case have to pay twice as much in the pound upon his real value as he would in the other?—Precisely, to give effect to the value; but if a tenant takes a subject for a certain amount of rent, and with the condition to uphold it, I say a fair sum to represent the upholding should be added to his rent; because, the fair rental of every subject should include both landlord's profits and the cost of up-keep.

957. Take, for example, two subjects, one of them requires a very large expenditure to maintain it, and the other does not. Why should the rate per pound in the one class be higher than in the other; is it not fair to take the net value in both?—It is often said that old property requires more expense of up-keep than new property does. Now, that may be to some extent fallacious, and I believe in Glasgow it is, for new good property requires so much painting and papering that the average cost of up-keep is nearly as great as that of inferior property. It is the annual rent that is the value of the subject. If you buy new property you require to give from 12 to 14 years' purchase, whereas, if you buy old and inferior property, it may be bought for from six to eight years' purchase, and the old property gives a better return to the capitalist than the new. One instance came to my observation. A proprietor in Glasgow told me that he actually drew 20 per cent. clear profit upon money invested in some old property there.

958. Has the rent anything to do with the cost price of the article, or with what it produces per annum?—If you come to inquire into the net cost, you come only to inquire into the profit to the landlord.

959. Is the rate laid upon the annual value or upon the cost price?—I think it should be upon the sum paid for the actual use of the subject.

960. And you think the proprietor should pay the same rate per pound, although by the terms of the lease he is obliged to lay out one-half of it?—That is his own bargain.

961. It would be his bargain, but it may be the nature of the article that it requires a considerable sum to be laid out in keeping it in repair; therefore, it must be done without any question of bargain at all. In the instances I have given you, the one landlord requires to lay out nothing, while the other requires to lay out 50 per cent.; is it fair that the same rate should come upon those two proprietors?—I am not aware of any property that requires so large an outlay as that.

962. Take the instance of a railway; it is said it would take 40 per cent. of its annual value to keep it in repair; and then take a field which has only a fence to keep in repair, I suppose costing about 2½ per cent.; is it right that the railway should pay the same actual sum of every 100 *l.* of its valuation that the owner of the field pays?—You will observe the difference between the railway and the field is this, that the field is actually let.

963. I assume

963. I assume the field is in the possession of the proprietor?—He can ascertain the value of the field by the value of the neighbouring fields of the same quality and extent. But the railway is in the possession of the proprietor himself, and you get at his valuation, of course, by getting at his profits.

964. The question is not exactly how you will ascertain the value, but the value being ascertained that a tenant would give for this field 100 *l.* a year, and that it would require 2 *l.* 10 *s.* to keep it up, then the rateable value is 97 *l.* 10 *s.* In the other case, the tenant would give 100 *l.*, and it would require 50 *l.* to keep it up, so that the nett rent would be 50 *l.*; is it right that the man who receives the 50 *l.* nett rent, should pay the same sum total as the man who receives 97 *l.* 10 *s.*?—I do not see why he should not pay upon the whole sum, because he may be making a larger profit out of it than the man who bought the field.

965. Major *Cumming Bruce.*] It is a fair way to take what the property would let for?—Yes.

966. Would it be probable, if a railway were valued at what it were let for, that any tenant would give a rent of which he was obliged to give one-half away for the repairs?—The tenant, in taking a railway, would first get the cost he would require to be at, with regard to the working of the subject; he would then look at the value, and offer a rent.

967. You say you do not know in what way the railway assessor returns his valuation?—He would never give us the particulars of his mode of assessment.

968. Have you applied to be informed?—Yes.

969. And he has declined to tell you on what grounds he assesses?—He has declined both by letter, and also in the presence of the Court.

970. Do you think it would be desirable that you should know on what principles he acts generally, in making up his valuations?—I think so.

971. He has declined to give you that information?—He declined, and left us at the disadvantage of fighting with the railway companies when they made the demand for deductions, without knowing what they had got before.

972. Mr. *Dalglish.*] Would not it be a great advantage to have some general principle of valuation laid down?—The general principle of valuation in regard to properties which are and can be let, appears to me very fair. Of course the other properties which have got to such a magnitude recently that they cannot be let, require some principle for themselves; we have got so far that principle in the new assessor, Mr. Dods.

973. You are satisfied with the principles laid down for general purposes?—Perfectly.

974. And you think it is fair to landlords and tenants to pay a fair share when the assessment is levied upon that principle?—Most unquestionably.

975. You do not want any change in that principle?—I want no change, except to do away with the deduction in the 37th clause of the Poor Law Act.

976. You heard the evidence given by the previous witness with regard to lands, houses, &c., and the mode of deduction on quarries; it appears from that, according to the figures that he gave us, that lands pay 5 *l.* 17 *s.* 1$\frac{1}{7}$ *d.* on 100 *l.*; that houses pay 7 *l.* 10 *s.*, and that quarries pay only about 4 *l.* 17 *s.* 6 *d.* per cent.?—I think the principle of classification is not one that works fairly.

977. But is that a fair mode of levying an assessment?—The classification which has hitherto been given is to give the preference to land, to let the land off at a cheaper rate than dwelling-houses. I do not think it is fair.

978. But the land seems to pay in a much dearer way than quarries?—Precisely, and therein that classification works unfairly.

979. There is a difference of one per cent.?—Yes.

980. If my calculations are correct, dwelling-houses pay 7 *l.* 10 *s.*; land, 5 *l.* 17 *s.*, and quarries, 4 *l.* 17 *s.*?—

Mr. *Smollett.*] That was for Dundee only.

981. Mr. *Dalglish.*] I want just to find now, from you, what is your mode of valuing houses and public works?—Our mode of valuing, as I said before, is to give 7$\frac{1}{2}$ per cent. off the rental of land, and 12$\frac{1}{2}$ per cent. off other heritages. The land pays 5 per cent. more than dwelling-houses, and other properties of that kind.

982. And there are no other deductions?—No other deductions.

983. Mr. *Smollett.*] That is for the poor-rate?—Of course I am speaking to the poor-rate; the other local rates are levied on the gross rental.

984. Mr. *Dalglish.*] Do you put dwelling-houses and public works in the same position?—Precisely; land is thus assessed upon 92 *l.* 10 *s.*, and dwelling-houses and public works upon 87 *l.* 10 *s.*

985. How is the assessment provided in the land?—Half to each, landlord and tenant.

986. The same in houses?—Precisely the same. I may mention, in regard to the difference of land and house deductions, that an attempt was made some years ago to get it reduced; to classify the lands; but the parochial board found the land rent so small, and the question of classification so difficult; and also, that the land had been all leased under the knowledge that the tenants were to pay half the poor-rates, that they would not entertain the application.

987. Major *Cumming Bruce.*] It was compromised, in short?—No, not with the tenants of land. We had compromised with the proprietors of railways and other such works to avoid litigation.

988. Mr. *Dalglish.*] Are we to understand that the people of the parish of Govan and the Poor Law Board are quite satisfied with the old mode of valuation, except the valuation of railways?—The parochial board, so far as I know their mind, and every inhabitant of the parish with whom I have spoken on the subject, are quite satisfied with the present mode with that one exception.

989. Major *Cumming Bruce.*] Would you prefer having no deduction whatever?—It is as broad as it is long; because, if you give deductions to one and another alike, you just require to raise your rate per cent. If you assess upon seven-eighths of your rent you must put on another one-seventh of your per-centage of assessment.

990. Mr. *Mackie.*] How do you assess land which the proprietor keeps in his own occupation?—The land is valued according to the rate of other land near to it in the market. There is no trouble at all with the agricultural valuation.

991. Just as if it was let to a tenant?—Precisely.

992. And upon that sum entered in the valuation roll such proprietor pays rates and taxes?—Rates and taxes as landlord and occupant. Of course

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course he gets in the poor-rates a deduction of 7½ per cent., but in the other rates he will pay the full rent.

993. You make no enquiry as to how he farms the land?—Not at all. Grass land, let as such, we look upon as being in the actual occupation of the proprietor; and though he may sell the grass we look upon that as that he sells the crop. We have nothing to do with grass lands at all; we simply take them as agricultural subjects in the neighbourhood.

994. A grass crop is as much an industrial crop as a turnip crop?—In our parish it is; it is all artificial grass with us.

995. Mr. *Blackburn.*] Supposing in your parish there were two fields in pasture of the same size and quality, one being inland, and the other upon the banks of the river, and each let for grazing at 50*l.* a-year, belonging to two different proprietors, but the Clyde being rather troublesome, required an expenditure of 10*l.* a-year upon the banks to keep it in repair, so that the proprietor of the one only puts in his pocket 40*l.*, while the other has 50*l.*; should each pay the same rate to the parish?—It comes back to the first answer I gave on this point. The proprietor on the banks of the Clyde seeing he had to do that would pay so much less purchase price for the land.

996. I have taken the position that he pays the same rate?—My position is, the rent is the proper criterion of the rateable value of the subject, no matter what the proprietor gets out of it for his profit. The amount paid by the tenant should be the amount on which the assessment is levied.

997. You think both parties should pay 50*s.*, supposing a 1*s.* rate, though the one only gets 40*l.*, while the other gets 50*l.*?—Both get 50*l.* rent. The one has less profit than the other; but the rent paid is the same in both.

998. You think the assessment should be for the land without regard to the incomes?—Precisely.

999. Major *Cumming Bruce.*] You imagine a sensible man, taking one of these fields, knowing he would have to pay 10*l.* more, would probably offer 10*l.* less rent?—If a tenant was to keep up the embankment, he would certainly give 10*l.* less rent.

1000. *Chairman.*] If the man bought it he would give a less price?—Unquestionably.

1001. Then do you look upon the capital invested in the property by purchase as the true standard at which the rates should be levied?—I look to this; although the one proprietor gets 50*l.* and the other 40*l.*, the amount of profit each of them make upon the sum invested in the purchase is the same, and the 50*l.* of rent is the proper basis for assessment.

1002. Mr. *Dalglish.*] With regard to the mode in which the value of railway stations is taken, the assessor, you understand, values a certain amount upon the houses; is that so?—Yes; that is in the terms of the Valuations Act.

1003. Is that valued in the same way as the other houses in the parish?—It is entered in the valuation roll the same as the others; but when the railway company come to ask deductions, they make no separation of that, but they want deductions over the whole gross rent they are assessed upon.

1004. Then he places no value upon the railway proper?—We get the railway proper, according to the mileage; we get the wharves, and sheds, and stations, and everything of that kind. We get that three per cent. upon the outcost; but for sidings, which embrace a large space of ground, they were not included, either in the mileage or stations.

1005. Did you ever make up, for your own satisfaction, any account to show what the same amount of ground would have brought if it had been covered with the average class of dwelling-houses in the district?—I had a report of that kind from Mr. Martin, the civil engineer, some years ago, but it is mislaid.

1006. Perhaps you can recollect what the proportion was?—The proportion it bore was as near as might be, taking the railway assessor, as one is to three.

1007. In fact, if there had been no railway there, and the property had been covered with houses, you would have had three times as much assessed?—At least two and a-half times as much assessed.

Mr. Robert Readman, called in; and Examined.

Mr. *R. Readman.*

1008. *Chairman.*] You are the Manager of the Forth and Clyde Navigation?—Yes.

1009. That consists of a canal extending from the Forth to the Clyde?—With a branch to Glasgow.

1010. And it passes through several counties and a great number of parishes?—Yes.

1011. What counties does it pass through?—Through Stirlingshire, Dumbartonshire, and Lanarkshire.

1012. And how many parishes do you pass through?—A great many; Barony parish, Bothkennar parish, Bothwell parish, Govan parish, Cadder parish, city parish of Glasgow, Cumbernauld parish, Falkirk parish, Kilsyth parish, Kirkintilloch parish, New Kilpatrick parish, Old Kilpatrick parish, Old Monkland parish, New Monkland parish, Polmont parish, Slamannan parish, Shotts parish.

1013. Your canal is valued by the general valuator?—Yes.

1014. How are the deductions made in the parishes through which you pass for the poor-rate?—They vary in almost every parish.

1015. Would you state some of the different rates of deductions?—In Barony parish of Glasgow we get 20 per cent.; in the city parish we get the same; in Kilsyth we get 10 per cent.; in Slamannan we get 5 per cent.; in Kirkintilloch we get 28 per cent.; in Bothkennar parish we get 30 per cent.

1016. What is the highest deduction you get?—Thirty-five per cent.

1017. Where is that; what parish?—That is in Cadder parish, where the deduction allowed to land is 25 per cent.

1018. What is the actual outlay incurred in the maintenance of your canal for repairs and expenses?—I make the actual outlay, with the necessary deductions for renewals of the various works, which are subject to great deterioration, lockgates, and bridges, 36 per cent.

1019. What do you allow for renewal?—Five per cent. for renewals on these properties.

1020. And

1020. And then, without renewal, you actually lay out 31 per cent.?—Twenty-three per cent. we actually lay out, and I allow 13 per cent. for renewals and all other charges.

1021. Does that include rates and taxes?—Rates and taxes are included in the 23 per cent.

1022. What are the other charges included in the 13 per cent., renewal, and what else?—There is provision for renewal of these works, for insurance, for risk in stoppage of the navigation from ice and drought, and outbreaks, and the deterioration and interest upon the plant required for keeping the canal in repair.

1023. How much do you allow for ice stoppage?—I take an average of 1,500*l.* a year as the sum for risk of stoppage from ice, drought, and outbreaks.

1024. Upon what principle do you call ice-stoppage to fall under the Poor Law Act deductions?—It is an element of deduction that must be taken into account in valuing the property.

1025. It relates to its profit, but it is not repair or keeping up the subject in any way, unless the ice does damage to the banks?—So it does, to a certain extent.

1026. But it is not that?—It is not that.

1027. It is a loss of profit from the stoppage of trade?—Yes; but our valuation is based upon our actual revenue.

1028. Is not that a matter which should come under the consideration of the assessor, in estimating the value of the subject, rather than a deduction from the valuation when made as for keeping it up?——

1029. Mr. *Blackburn.*] I would rather put it in this way: is your actual revenue not less because there has been ice-stoppage in the previous year?—There may or may not have been ice-stoppage in the previous year.

1030. *Chairman.*] On what years are these per centages calculated?—On an average of 10 years.

1031. From such valuation?—Yes.

1032. One parish, you say, gives you only five per cent., have you an appeal in any way against the inadequacy of the allowance?—The valuation here is trifling; it only comes to 39*l.*, and no allowance is made to other properties.

1033. Is it not worth while contesting?—No.

1034. Are there any special points upon which you think you suffer hardship from the present system, that you would like to bring before the Committee?—First of all, that our gross valuation is too high.

1035. I do not know that we can deal with that; if it is too high, from the system of valuing, we can hear you; what is the cause of its being too high; is it a mere error of judgment on the part of the assessor, or is the machinery adopted defective?—It is owing, as I make it out, to an error in bringing out the gross valuation. Of course the rent of this subject never can be tested actually by letting it.

1036. Are the rules laid down in the Act of Parliament for directing the assessor in making his valuation objectionable or insufficient?—There are no rules laid down at all for him.

1037. The Act of Parliament specifies the mode by which he has to arrive at the value?—No. The Act specifies the mode in which he is to apportion the value, but there are no rules laid down by which he is to arrive at that value.

1038. You consider the Legislature should lay down some rules by which he could get at that value?—I think, in the case of railways and canals and similar properties, where the test of rent cannot be applied, there might be something of that kind.

1039. What regulations do you suggest as proper to be adopted?—I am not prepared to state exactly, but I think somewhat of the same test as is applied to stations; a certain per-centage on the cost. I think, by that means, we might arrive in many cases at a fair amount of value.

1040. Would you apply that to all canals everywhere, or specially to your own canal?—To all canals. There happen to be very few besides in Scotland.

1041. Have you any other objection?—The next thing I have to say is, that according to the present machinery of the Valuation Act, there is a conflict of jurisdiction between the assessor appointed specially to value the railways and canals, and the local assessors. The canal assessor takes in all properties belonging to the canal. He includes, in the station value, the value of these properties, and he includes in his cumulo value of the canal, the rents derived from these properties. The local assessor comes and finding property let to a tenant, the rent of which is put into the cumulo value by the canal assessor, says that is not a part of your undertaking, and I put it into my roll. The canal assessor had it already under his, and when the assessments come to be imposed, we pay upon the canal assessor's valuation, and we have also to pay upon the local assessor's valuation.

1042. Are you sure that the canal assessor takes these stations into value?—Perfectly sure, because he gives me a certificate that certain rents are included in his cumulo value.

1043. Then what you wish is that the whole should be under the general assessor, and that the local assessor should be excluded from valuing any part of it?—We desire that at all events the assessor appointed for the purpose should have the power of saying how these properties are to be dealt with, and not allow another one to come in.

1044. Would it give a general assessor the power of fixing the deductions also?—I think he ought certainly to fix the deductions.

1045. So as to make it uniform over the whole line, and not varying in each parish?—Just so; so as to save us any squabbling.

1046. That would not bring you into collision at all?—Not at all with the parochial or the assessing boards.

1047. Have you any other suggestion you would like to make?—In the terms of the valuation roll we are obliged to appeal if we are aggrieved against the assessor's roll by the 8th September, and the Lord Ordinary hears that appeal and decides upon it. But if we do not appeal by the 8th of September we lose the power of appealing that year. The parochial boards and other parties have the power of appealing before the Lord Ordinary up to the 30th November even, and we think it would be better to fix one date up to which all parties should have the power of appealing, so as to prevent confusion. It has happened in one case we had occasion to appeal, and the Lord Ordinary decided the appeal, and of course we were out of court. And then in came the parishes and boroughs and appealed against the valuation as being too low.

1048. You wish the time to be extended, or that the parochial board time should be limited to the

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the same as yours, so that you should be on an equal footing?—Either way would do, so that whatever appeals come in they should be treated together.

1049. Is there any other hardship which you suffer?—I object to the power of classification in the Poor Law Act; I think that that should not exist; because even supposing that we get all the deductions that we consider ourselves entitled to, still assessing bodies may get rid of it by imposing a higher rate of per centage upon our proportion as occupants through the different parishes in which a canal is rated.

1050. That would be remedied by the whole matter of deductions being in the hands of the assessors?—It would by deductions being in the hands of the assessors, and the rates being laid on accordingly. I think the roll should contain in all cases the gross value of the subject, and a column for the expenses, and a column for the nett value, on which the rate should be imposed.

1051. That is an assessment that would be satisfactory to you, and that you would think just?—I think so.

1052. Mr. *Blackburn.*] Taking the Caledonian Canal, for instance, do you think a rate upon the interest of the cost of that would be a fair proportion to charge the Caledonian Canal?—I believe it is not valued at all as being Government property; but no doubt there might be some special exceptions.

1053. You do not think it would be fair to take the cost in that case?—No, it would not, because there would never be money to pay the rates.

1054. Your theory is, the net income should be the sum assessed, and nothing else?—Yes, our proportion of the nett income.

1055. The nett income, as far as it applies to the income arising from the lands and real property, should be assessed?—Yes, after every deduction has been given effect to.

1056. You think the valuation made by the assessor of railways and canals should be conclusive as to what constitutes the property of the railway and the canal property, and that you should not be liable to have an assessment laid on by the local assessor in addition?—Certainly not; we are paying double in some cases just now.

1057. Mr. *Mackie.*] Is your company a public company?—Yes.

1058. What was your last dividend?—Six and a-half per cent.

1059. As compared with the income that the landed proprietor gets off land, that is a very large return?—Oh, yes.

1060. If your views with regard to assessment were carried out, you would be able to pay a better dividend than 6½ per cent.?—A fraction better, if we got relief.

1061. And the landed proprietor would not have so much?—It would have to be supplemented by the other properties.

1062. Mr. *Smollett.*] Would you value every house in the county, or borough, or town?—Yes.

1063. Would not that impose a very great labour?—You mean to say, would you deduct the proportion of the cost of maintaining each individual house?

1064. Yes?—No, I think not. I think the assessor should have the power of classifying the houses or the descriptions of property: for instance, in a large town like Glasgow, he might put first class, second class, third class, and bring out the amount of deduction that should be allowed to each particular class. Of course it would be endless to give the actual amount of deduction in each holding. (*The Witness handed in a document.*—Vide *Appendix.*)

Mr. Archibald Paterson, called in, and Examined.

Mr. *A. Paterson.*

1065. *Chairman.*] You are assessor of the county of Edinburgh; do you follow any profession besides that of assessor?—I am a farmer and land valuer.

1066. And were you so at the time of your appointment?—I was.

1067. Will you explain to us the principles on which you value mills and manufactories in your county?—We have mills and manufactories let in the county. I ascertain the extent of these, and their capabilities in regard to water power, steam power, and other things, and put a proportionate value upon the mills that are in the hands of the proprietor.

1068. How do you get at the proportion; do you form it by an estimate of the general capability?—I ascertain the steam power, the water power, and the extent of the buildings.

1069. Then do you take just a proportionate supposed rent according to the area of the buildings, without reference to any other consideration than the area?—I take the area of buildings, the water and steam power of the same description of mills that are rented, and I find what they are rented at.

1070. According to the area?—According to the area of buildings, steam and water power.

1071. And you apply that area to the unrented mills?—Yes.

1072. Equally?—No, not equally; it depends upon the height of the buildings and other things. I have them valued at different rates.

1073. It is said, for instance, in these Valleyfield mills, they were originally barracks, and that the superficial extent is much greater than would be needed, would be proper in building a mill for the purpose of paper making. Do you take that into consideration at all, or do you take the full area of these buildings, not originally adapted for the purpose, and calculate that at the same rate with the area of buildings built for the specific purpose?—I am of opinion the mills I compare these with are not more inconvenient for the purpose of paper manufacture than the Valleyfield mills; that is, the Valleyfield mills are equally convenient for the manufacture of paper.

1074. They may be equally convenient, but if they were built for a purpose which require larger space, and the same space would not be required for carrying on the works, your rule of the area would be calculated in that case to bring out a larger sum?—If I were applying it to mills that had been constructed originally for paper mills; but there is scarcely one of the mills in Mid-Lothian that have been constructed for paper mills, or are more convenient than the Valleyfield mills.

1075. Other

1075. Other inconveniences might arise from their being cramped and small, having their area confined?—The buildings in most of the mills are very inconvenient, and Valleyfield mills, as far as my judgment goes, are fully as convenient as any other mills in the county, with the exception of, perhaps, one mill, built purposely for a paper mill.

1076. In regard to the water power, it was also stated that some water power in your county let lately, has not brought anything like the amount you put on it?—I am not aware of that.

1077. It was so stated; you put 7½ per horse power on it?—I put so much per horse power upon water.

1078. Right Hon. *Edward Pleydell Bouverie.*] £.7 a horse?—I must explain that that includes the weirs and also the wheels, and every other requisite necessary for the production of the power.

1079. *Chairman.*] Your judgment is liable to an appeal to the Commissioners of Supply?—It is.

1080. Would you see any objection to an appeal being given to the Judges of the Court of Session from the Commissioners of Supply, in the same way that the appeal lies when the Government Assessor has been appointed?—None whatever.

1081. You would probably think that was an advantage?—I think it would.

1082. And a satisfaction to yourself?—Yes, it would.

1083. Then, in regard to the houses of the resident gentry, in what way do you put a value on them, when occupied by the proprietors?—I find several of the houses in the county let, and that is my guide in regard to these. I find they let furnished at about 350 *l.*, when they are let even upon a lease, and of course that is my guide.

1084. It is stated that one residence in the county was let, for a school, at 450 *l.*?—That will be entered in the valuation roll at that sum now. It is entered last year in the valuation roll.

1085. You do not at all take into view, in estimating your houses, that it might be let for some other purpose than as a mere residence?—If it is let as a mere residence for a gentleman, of course that is my guide in making a valuation of houses occupied by the proprietor.

1086. In valuing houses occupied by proprietors themselves, you do not take into view the possible rent that might be obtained for them for other purposes than residences?—No, I do not.

1087. Have you more than one house let in that way, near Edinburgh?—As a school, I think not.

1088. The Grange, is not that in the county?—No, it is in the city; and I may mention that that question in regard to the valuation of proprietors' houses and manufactories was appealed in the county of Lanark; it went to the Lord Ordinary, and it was decided in the way I make up the valuation roll.

1089. Sir *Graham Montgomery.*] A very large house might often in that way be entered at a lower rent than a smaller house, because, being so large, nobody would care to occupy it?—They are valued something in proportion to their size, but if they were very large, of course you would not get a value in proportion to their size, out of them.

1090. *Chairman.*] How do you value Dalkeith Palace?—Dalkeith Palace is valued at 230 *l.* In addition to that, the gardens are very large; they are valued separately, and the stables, and other things. That is an establishment so different from others that it is valued differently, and the stables and gardens, and other things, are valued in addition to the house. That is a very large establishment, but the house is not so much larger than some others in the county.

1091. Have you taken into consideration the matter of deductions being made in the valuation, such as are given in the poor-rate?—I have not paid much attention to that.

1092. Supposing that duty were laid on you, do you think it could be done?—I think it would be a very difficult and delicate duty for the assessor to perform.

1093. The first year it would be very difficult?—Yes, and every year after, if he were to judge every case by itself as it came up.

1094. From your knowledge of the value of property, could an approximation with fairness be come to by classifying the property and having a per-centage?—I think that is the best way of doing it.

1095. You think that might be done with reasonable fairness?—I have no doubt that that would be the best way of doing it if it is to be done.

1096. What is your notion of the relative cost of maintenance for landed property, house property, and mills?—I have never had charge of landed property, therefore I cannot speak very definitely on that subject. I believe rates and taxes upon landed property are somewhere about 10 per cent. It depends very much how a mill is let. Some of the mills in Mid-Lothian are let with the tenant doing all the up-keep, and the proprietor only receiving the rent, being at no expense whatever; there could be very little deduction from that.

1097. Have you any suggestion to make as to anything that would improve the present system?—The only suggestion that I have to make is, that if deductions are to be made by another party than the assessing boards, that a classification should be made by this Committee, after taking full evidence, and the amount of deductions upon each class fixed, and the only dispute that could arise then would be to which class the property belonged. I think that would be the only practicable way of doing it satisfactorily.

1098. And that would be one easily workable, and, you think, a satisfactory mode?—Yes, after the classification and deduction were fixed by statute.

1099. Right Hon. *Edward Pleydell Bouverie.*] Do I understand that in assessing the paper-mill occupied by the proprietor, you looked to the rent which another mill, which is let, yields to the owner, and then make a rule-of-three sum from the area of ground occupied by the two works?—I do.

1100 *Chairman.*] Not the ground?—No; the capabilities of the mill.

1101. The flooring?—The capabilities of the mill altogether.

1102. Right Hon. *Edward Pleydell Bouverie.*] The working capabilities of the mill?—The convenience to markets and other things.

1103. Your object being to try and ascertain in that way what the mill would fetch if it was let to a tenant?—Exactly.

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1104. Mr. *Blackburn.*] From your experience, do you think it more proper to have the rates payable upon the nett or the gross value?—I cannot say that I have studied the subject. I cannot give an opinion. It is a very difficult subject.

1105. Major *Cumming Bruce.*] If made upon the gross value it would be the simpler way of obtaining the amount you wanted?—That is one recommendation.

1106. With the amount of deductions occasionally given for different classes of property, do you think that gives satisfaction, or does it give rise to jealousies between one class and another?—I understand the railway interests are very much dissatisfied with it, but other proprietors are generally satisfied.

1107. Mr. *Leslie.*] Are the proprietors of paper mills satisfied?—Except one in our county. I have heard of no complaints except from the Valleyfield mills. There are a great number of paper mills in the county.

1108. Major *Cumming Bruce.*] Supposing you assessed 100 *l.* a year; if you assessed that 100 *l.* upon a rental of 1,000 *l.*, the assessment will amount to a certain sum; if you assess it on only 500 *l.*, the assessment must be double that sum?—There is no doubt of that.

1109. Therefore, in point of fact, except in the case of railways, according to what you have previously said, with other properties it would be very much the same thing, whether there were deductions, or classifications, or not?—It would make a difference if there were classification. If it were an equal deduction, it would make no difference: a deduction of 10 per cent. upon all would make no difference. But if you make a classification, and make different deductions on different kinds of property, there would be a difference.

1110. Sir *Graham Montgomery.*] What should you recommend to form the Appeal Court for questions as to which class of property it is to be put into?—The Commissioners of Supply.

1111. And would you recommend any appeal from them to the Lord Ordinary?—I can see no objection to an appeal, either to the Sheriff or the Lord Ordinary.

1112. Would you think it right that any ratepayer should question the valuation of his neighbour as well as his own?—Yes, it is quite competent for him to do so under the Lands Valuation Act.

1113. Lord *George Cavendish.*] In assessing a country house, do you take the furniture into consideration?—Only the house, not the furniture.

1114. You merely rate it at the rent it would bear unfurnished?—Yes.

1115. Mr. *Leslie.*] Are the ratepayers in the county of Edinburgh generally satisfied, do you think, with your valuation, and the mode of making up the roll?—I think so. There are not above half-a-dozen appeals every year, I think, in the county.

1116. Not more than half-a-dozen annually?—Sometimes only one or two.

1117. Right Hon. *Edward Pleydell Bouverie.*] Do the Valleyfield works pay actually more than any other paper works in the neighbourhood?—I do not think so. It is my opinion that they do not pay more.

1118. I do not mean in proportion, but the actual amount they pay?—Oh, yes; they have the largest mills in the neighbourhood, by far; but there are very considerable mills also in the county.

1119. Sir *Graham Montgomery.*] Did you ever have any communication with the Income-Tax Assessor as to how you should value any property when you were in doubt?—Occasionally we do correspond. I believe the Income-Tax Assessor takes my valuation very often.

1120. Do you sometimes take his?—I think it is oftener the other way.

1121. *Chairman.*] You value the Edinburgh waterworks, do you not, in the different parishes?—I do, conjointly with the city assessor. There is part of them in the city.

1122. How do you proceed to get the cumulo sum, and to allocate it in the various parishes through which it passes?—We take the gross revenue and make certain deductions, the same as in railways; and, after arriving at what we consider the rental, we allocate it in proportion to the expenditure in the different parishes. We get the amount of expenditure in every parish from the company, and the allocation is made in proportion to the expenditure.

1123. And then the deductions afterwards made by the parochial boards, are they made upon the expenditure for repair in the particular parish, or in a general view of the expenditure of maintenance on the whole work?—Every parish acts very arbitrarily in that matter, and do as they think fit, without knowing the reason for it.

1124. And it would be an improvement that that should be done by some general power?—I think so.

1125. Mr. *Leslie.*] What is the cost of making up the annual roll in the county of Edinburgh under the system practised now?—It is a little more than 200 *l.*; that includes postages, stationery, and everything.

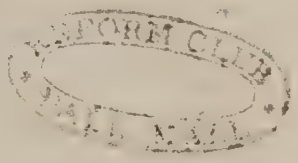
1126. *Chairman.*] Not including your salary, of course?—Including my salary, about 220 *l.*

1127. Mr. *Leslie.*] The whole sum?—The whole sum.

1128. *Chairman.*] Might I ask what is your salary?—My salary is 130 *l.*

1129. Right Hon. *E. P. Bouverie.*] What is the amount of valuation?—Between 400,000 *l.* and 500,000 *l.*

Lunæ, 3° die Aprilis 1865.



MEMBERS PRESENT:

Mr. Blackburn.
Major Cumming Bruce.
Mr. Dalglish.
Mr. Dunlop.
Sir James Fergusson.
Mr. William Leslie.
Mr. Mackie.
Sir Graham Montgomery.
Mr. Smollett.
Sir John Ogilvy.

ALEXANDER MURRAY DUNLOP, Esq., IN THE CHAIR.

Mr. FRANCIS JAMES COCHRAN, called in; and Examined.

Mr. *F. J. Cochran.*

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1130. *Chairman.*] You are the collector of county rates for Aberdeen?—I am an advocate in Aberdeen; I am collector of county rates for the county of Aberdeen, and have been so for about 11 years past.

1131. You are not the assessor?—I was the assessor under the Property and Income Tax Acts over a large district of the county of Aberdeen, embracing also the whole of the city of Aberdeen, for 20 years, ending 1862. I was collector of the poor's assessment for the parish of Old Machar, a very large and populous parish in the county of Aberdeen, and partly in and surrounding the borough of Aberdeen.

1132. It forms a great part of the suburbs of Aberdeen?—It does. I held that office for 19 years, ending 1854; and I or my firm of Smith & Cochran, advocates of Aberdeen, have been law agents for the parochial board, or managers of the poor of that parish of Old Machar, for the last 30 years.

1133. I believe the county of Aberdeen contains a great variety of all kinds of property?—Very great variety.

1134. And manufactures are carried on in some part of it to a considerable extent?—Yes. I may also mention my firm have the management of heritages in the county of Aberdeen, including the borough, renting from 9,000*l.* to 10,000*l.* a year, and I myself am a proprietor both in the county and in the borough districts, and am a member of two parochial boards.

1135. So that you have had great experience in valuing property for the purposes of assessment, and considering the deductions necessary to be made under the Poor Law Act?—I have had considerable experience in those things.

1136. Will you tell us how you proceed in Old Machar in making the deduction for the poor's rate assessment required by the Act of 1845?—We deduct, in Old Machar, 7½ per cent. from the rents of lands, and 20 per cent. from rents of buildings and railways. I have the rules here, which are very minute, but these are the general principles.

1137. They are quite enough; then you make no distinction between land with houses and land without houses, for instance, grass parks with no houses at all to keep up; you make no distinction between that class of land and a small farm with a farm-house?—On a landed estate with various farms we deduct 7½ per cent.; we deduct the same on a piece of land alone.

1138. Then you deduct alike from houses and from railways?—We deduct 20 per cent. from buildings and railways.

1139. All buildings, of whatever kind or description?—Of whatever kind or description. I have the rules here.

1140. Is there anything special in the rules?—The part that refers to your question is in these terms, "In estimating the annual value of lands and heritages both for the owners' and tenants' or occupants' assessments, 7½ per cent. shall be reckoned the legal deduction in the case of all lands and heritages, except buildings and railways, in lieu of rates and public charges payable in respect of the same, and 20 per cent. shall be reckoned the legal deduction in the case of buildings and railways in lieu of rates, taxes, and public charges, repairs, insurance, and contingencies payable in respect of the same, all in terms of the 37th section of said Act."

1141. What is the date at which those regulations were issued?—These regulations were made immediately after the parochial board had to resolve as to the mode of assessing under the powers of the Poor Law Act of 1845.

1142. Had you then railways existing?—No; I was just going to add, as we had not railways existing then, or but to a small extent, the words "and railways" were added by a resolution passed a good many years afterwards by the parochial board, and sanctioned by the board of supervision.

1143. Was that done on investigation as to the actual cost of repairs and maintenance, or was it just a guess?—As far as I recollect, it was done by the best consideration which the board could give to it, after complaints by the railway companies.

1144. Was there any evidence given, or information sought, as to the actual outlay required in these different classes of property?—I cannot say

Mr. *F. J. Cochran.*

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say from recollection if any minute statements were got of the actual expenditure.

1145. I suppose the members of the board were pretty well acquainted personally with these sort of things?—Of course they were.

1146. Did you take any statement from railways, as to what they alleged to be the cost?—I cannot say beyond complaints.

1147. Then, before they were placed into that 20 per cent. category, were they previously put on the footing of lands, 7½ per cent.?—They were at 7½ per cent.

1148. Then, the complaint was that they were put on the same footing as the lands?—Yes.

1149. From your knowledge of property, does that appear to you a just distinction between the two classss of property?—I would say that it was adopted by the parochial board of Old Machar, looking to the obligation which was imposed upon them by the Poor Law Act. I will speak as to the equity of it, if you wish me to do so.

1150. I wish you to do so; in adopting that mode of accomplishing the obligations laid on you, I want to know how far you are satisfied that it is an equitable arrangement?—Should I answer that before you get my experience about the county valuations? I mentioned that I have been collector of the county assessment for the last 11 years for the whole county of Aberdeen.

1151. County assessments do not now, at least, admit of these deductions; it is limited to the poor's rates?—No; county assessments do not now admit of these deductions.

1152. During part of the time in which you acted, there were deductions, were not there, in some of the county rates?—I was appointed collector of the county rates in Aberdeen in May, 1854, and I collected under the old system during the year, and a great part of the year 1855, and during that year or year and a-half the whole county was assessed for county rates upon the old Scotch valuation, and the houses or lands not in that valuation were assessed for county rates by a valuation put on by assessors appointed by the Commissioners of Supply for the purpose, and in neither the one case nor the other; that is, neither in the old valuation nor in the supplementary real valuation, did we give any deductions.

1153. Did not the Prison Act require you to give deductions?—The Prison Act required us to give deductions when we adopted the real rents throughout. But I may mention I only had two or three years of these small assessments to collect outstanding, under the supplementary plan recognised in the Prison Act and Rogue Money Act, where counties adopted the old cess roll. When I was appointed collector, there were two or three years of those small assessments in arrear, and I felt it was my duty, in the absence of any further instructions from the Commissioners of Supply, to continue the plan adopted by my predecessor in office, and consequently there were no deductions given from those real rents any more than from the old Scotch valuation while that lasted, but it came to an end during the next year.

1154. By the Prison Act was it not imperative to give deductions on all property subject to assessment according to the real rent?—Yes; and next year, when we adopted the new Valuation Act, in 1855, we gave the deductions.

1155. How did you ascertain the deductions?—Seeing that the Prison Act was imperative for deductions, and nearly all the other assessments in the county following the rule of the Prisons Act, we gave deductions throughout. Those deductions were 7½ per cent. from rents of land, and 15 per cent. from rents of buildings.

1156. And what from railways?—Railways got 15 per cent., and gas and water pipes 7½ per cent.

1157. Was this plan adopted after investigation; after any inquiry as to its justice?—It was adopted by a resolution at a general meeting of the Commissioners of Supply, after consideration at that meeting.

1158. There was no previous proof or inquiry as to what the actual outlay was?—I do not recollect any minute inquiry previously.

1159. What do you think of the justice of that?—That went on until 1860, when the new Prison Act passed, and, in consequence of the terms of the new Prison Act regarding deductions, we gave up deductions altogether, and then and since we have not deducted; we have not made any deductions for the county.

1160. Did you find much difficulty in effecting the assessment during the time that you made deductions?—No, I cannot say that we had much difficulty.

1161. Was there much dissatisfaction?—No.

1162. All parties seemed satisfied on the whole that it was a fair deduction?—Yes.

1163. Did the railways remonstrate in regard to these rates, as well as in regard to the poor's rates of the parishes?—Well, I cannot say that there was any formal complaint from the railways.

1164. And you never in the county gave them any further deductions?—No.

1165. But you had never classed them with the land, I think, in the county?—No, as I have said.

1166. You classed them with the land in the parish?—In the parish of Old Machar we first classed them with the land, and afterwards and at present with the houses.

1167. In the county they have been on the same footing as houses all along?—Yes.

1168. From your own experience, as a party connected with land, do these rates you have mentioned appear to you fair and just deductions in reference to the actual outlay on these different classes of property?—Well, my opinion is against allowing these deductions. I have now had experience as collector of the county rates for these four years without allowing any deduction whatever, and in that experience I have found that parties generally were just as well satisfied with the working of the Act in that way as they had been previously with getting deductions.

1169. The question I asked you was to your own opinion as to the fairness of these deductions, as really amounting to a just estimate of the outlay which the proprietor had in these different classes of property?—My own opinion is, that there should be no deductions at all from either class.

1170. It is your own opinion that one costs as much in outlay; that the land requires as much in outlay as the houses do and the railways; or do you merely think, as a matter of convenience, it is easier to levy it according to the gross rent?—I think, as a matter of convenience, and also as a matter of equity, it is better to levy it according to the gross rent, because, in the first place,

place, these deductions, when they are adopted, I consider to be inequitable. Parochial boards, finding themselves obliged by the Poor Law Act to adopt them, have only been able to do so by a general per-centage, which, by ranking in one class subjects very different, operates unfairly. Thus, when such deductions are given, one rate of per-centage is adopted as a deduction for lands, and another for buildings, and no further distinctions are made; so that a new dwelling-house gets the same deduction as an old one, and it is evident that in many cases two or three per cent. would be enough, or too much, for some houses, while 20 per cent. would be too little for others.

1171. I have not yet got from you your opinion as to whether 7½ per cent. and 15 per cent., as in the county, or 20 per cent., as in the Old Machar parish, amount to a fair estimate of the relative cost required to keep up the different classes of property to which they apply?—My opinion is, that either 15 or 20 per cent. is too much for a great many houses, and too little for others.

1172. In the meantime we look at land and houses together; is 7½ per cent. a fair representative of the cost to be laid out on land?—If I were to sum up the burdens upon land, which I can do, generally, I think probably 7½ per cent. as representing these on the average, would be rather small; but I consider that in land, also, there is great variety as well as in houses, but especially in houses, so much variety that, as I have said, I consider the system will not work equitably.

1173. What would you put upon land, as a fair deduction, equivalent to the outlay in the maintenance of the subject and the rates, including the roads?—For county rates, stipends, school salary, road assessment, poor rate, nuisance, registration, land tax, church, manse, and schoolhouse, I should say, that for all these probably about 8 per cent. would be required; besides repairs to houses, fences, insurance of houses, road making, and repairing and upholding drains and embankments.

1174. At how much do you estimate that?—I could not take that upon me.

1175. Upon an average?—It is very difficult to do that.

1176. How much of that 8 per cent. for rates is composed of rates to which the land is exclusively subject?——

1177. Mr. *Leslie.*] Perhaps the witness will particularise the per-centage of different rates?—County rates?

1178. *Chairman.*] County rates are not exclusively on land; I want to know how much of that 8 per cent. is exclusively on land, and does not touch other property?—I can give you all the items: county rates, 1½ per cent.; stipends, that item is varied, and of course it is very little better than a guess; I say for that 2½ per cent.; school salary, landlord's share, ¼ per cent.; road assessment, landlord's share, ¼ per cent.; poor's rate, nuisance, and registration assessment, landlord's share, 2½ per cent.; land tax, about ½ per cent.; church and manse, and school-house, building and repairing, say ¾ per cent.; and the total of that is about 8 per cent.

1179. Pick out those that are peculiar to land, that apply exclusively to land?—That would be about 4½ per cent., or thereabouts.

1180. Which do you take for that?—I have stipends, school salaries, road assessment, land tax, church, manse, and school-house.

1181. The road assessment, that is laid on the valued rent, is not it?—Yes, it is.

1182. Then, church, school-house, and manse, have you had any rebuilding at Old Machar; is it laid according to the valued rent?—I have not acted as agent in such matters as those. I have only been acting for the parochial board.

1183. Do you know in point of fact whether in Old Machar the manse and church are upheld on the valued rent or on the real rent?—There has been no call I know for some good many years; I cannot say from memory how many; I should suppose in such a parish as Old Machar, a mixed parish, that it must be real rent, but I cannot say that an instance has occurred.

1184. You only calculated that at ¾ per cent.?—Yes.

1185. Then, including that, you make 4¼ per cent.?—I think 4¼ per cent.

1186. It is 4¼ more for rates than on house property; now, with regard to the different classes of house property, one per-centage does not do equal justice?—No, I think not.

1187. In order to do equal justice, how many different classes would you think it necessary to divide the house property into?—What I say in answer to that is, that if the principle of giving deductions were carried out, each property must be dealt with by the assessor on its own individual footing, that is, if equity is to be obtained.

1188. If perfect equity is to be obtained; but if it were to give an approximation to justice, a per-centage would do. Your parish has gone on that principle all along, an approximation, and they have only taken one class. Would it not be a greater justice to divide them into three classes?—I do not see the possibility of making distinctions between the classes. And, supposing we could do so, there would still be such a variety in each class, I fear, as to render it inequitable.

1189. That is to say, you could not reach perfect equality, but could not you get a greater equality than you had before?—Of course we could get a greater equality, provided you could distinguish the house property into classes.

1190. Do you see any insuperable difficulty in distinguishing between the better houses, the inferior houses, and the worst houses?—I do see difficulty. Is it by the age of houses? Is the assessor to require evidence of the age of each house, or what principle is he to adopt in fixing whether the deduction shall be one thing or another, with regard to each house, or whether it shall fall into one class or another class? I think that the labours of the assessors would be so multiplied, and would result in such vexation, by creating difference among the ratepayers and heartburnings, that I think it would be very disadvantageous.

1191. Do you say you would see the same reason for excluding railways from the deduction which they require?—I am not very well acquainted with the expense of maintaining railways, but I should suppose a similar difficulty to arise even there. Probably an old-formed railway would expect a larger deduction than a newly-formed one.

1192. And to avoid these difficulties you think it would be better to impose a rate on the gross rate?—According to the gross rent.

1193. That is to say, if it costs half the rent to keep the subject up, you would still assess on the

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the gross rent?—There is another reason I would give for declining to give deductions, and it is this: because I consider the principle of giving deductions to be inconsistent with the principle of lands and heritages being held as the basis of local taxation. The heritage for such taxation is not assumed as the income of the proprietor, on the principle of levying the tax on him upon his income. So far from this, one proprietor has to pay out of his rent 90 per cent. of it, as interest on borrowed money, and another has no such burden. And yet, discarding all such deductions, both of them are charged the same amount. One may be subject to heavy family provisions, and another may be subject to none. One may hold merely as a life renter, another as fiar; one absolutely, another under entail; and so on in almost endless variety; and yet no allowance is made for any of these cases. If the rents be the same they are all charged the same, although some of them may be very rich and others very poor. The assessor neither takes into account their other sources of income however great, nor does he take into account their necessary outgoings however great those may be; and the reason of this is that the heritages themselves are the easiest attainable subjects of taxation, the least liable to dispute, and on the whole, considering the incidence and ultimate bearing of the taxation, probably as equitable as can be got. Now I consider that there is just as much equity in declining to give deductions for repairs as there is for declining to give deductions for real burdens or interest on borrowed money. If necessity be taken as the rule, the latter is often more necessary than the former. The interest must be paid, while the repairing is in general a voluntary matter; the one is a real burden by law, the repairs are voluntary. I consider therefore that the whole principle of the taxation to which the present question applies, is, that the lands and heritages alone, according to the rent, are taken as the basis, and that giving any deductions to proprietors is an infringement on that principle, an infringement which, if carried to its legitimate issue, would destroy the principle altogether, and involve deductions for the interest of borrowed money, annuities, nature of the tenure, and the almost endless variety of circumstances and conditions in respect of which so many lands and heritages differ from each other.

1194. Are deductions from borrowed money deductions from the rent or from the income?—Of course I consider that they are deductions from the rent, that is, the landlord pays them out of his rent; he pays the interest out of that rent in the same way as he pays repairs out of his rent.

1195. But they are no burden on the land; your view is that justice would be to charge a man on his income?—I say that the principle is that the lands and heritages be taken as the basis of the taxation according to their rent, and that the paying of interest out of the rent is not allowed, and for the same reason repairs paid out of the rent should not be allowed. The interest may be a clearer legal burden upon the rent than the repairs are.

1196. Though the repairs are necessary to keep the subject in existence?—The payment of interest on the mortgage is quite as necessary to maintain the subject.

1197. It is necessary to maintain it in the same man's hands, but it is not in the least necessary to keep the subject in existence. It would be as good a commodity in another man's hands?—There are many other things which a proprietor might have to pay in order to keep up his rent to a certain mark, and we do not recognise the principle of going into any such things as these; they would be perfectly endless, and I just look upon repairs as in the same category.

1198. You would do away with the deductions in the poor's rates also?—If it were not for the existing statute.

1199. If you had an opportunity of altering the law you would abolish that?—Yes; I may mention that various county parishes in Aberdeenshire do not give any deductions at all.

1200. When the property is all of the same kind, I suppose they consider it of no consequence; for, if you make a uniform deduction, you might as well make none. Is there any thing else you would like to state to us; any other objections to the present system?—There are one or two things I might mention. First, I think the assessing clause of the existing Act might be somewhat improved in reference to leases of more than 21 years; I am speaking more as to the form of the rule than as to its principle. At present the direction of the clause here is, that in such cases (that is, where the lease is more than 21 years) the tenant is to be charged as the proprietor under the Act upon the whole annual value, and then deduct from the landlord upon the rent which he actually pays to the landlord. Instead of that, it would be far more convenient if the landlord were charged directly upon the rent which he draws, and the tenant charged as the proprietor under the Act upon the surplus. The result would be the same in the liabilities, and it would avoid the anomaly of a landlord being charged directly on one portion of his rental, and through his tenants upon another portion of his rental.

1201. Can the landlord now under the Act be charged for more than the rent which he receives?—No: it is the tenant who is charged just now. I am speaking of leases more than 21 years in duration. In such cases the tenant is charged as the proprietor of the subject upon the gross annual value, and then he retains from the landlord, not the sum which he has paid, but a sum corresponding to the rent payable to the landlord.

1202. Then you would have another entry; you would have an entry of the difference between the rent payable to the proprietor, and the rent payable by the occupying tenant to the mid-tenant, and you would have that set down as a separate charge as against the mid-tenant?—Yes.

1203. As if he were owner?—Yes; because then the landlord would be charged directly upon his own rental instead of, what must sometimes be unintelligible to him, being charged upon a portion of his rental, and some of his tenants retaining from him.

1204. Would you extend that rule you suggest to leases under 21 years?—With regard to leases under 21 years, I think there is rather an omission in the Act in respect to buildings erected by the tenant; and I think that a tenant ought to be charged as proprietor under the Act in respect of buildings erected by him, whether the lease is for 21 years or under, more or less. Because, take the case of a sub-tenant. A sub-tenant occupying a house, whoever it is erected by, ought to be charged for occupier's assessment, according

according to the gross annual value of the house, or the rent which he pays for it. But the tenant, I think, should also be charged as proprietor upon the annual value of the house which he has erected.

1205. You were going on to suggest something else?—Well, there is another thing which has occurred in our county, and I think it has occurred in other counties; I made a memorandum of it some years ago, when it occurred. It is with reference to detached portions of counties surrounded by other counties. In the county of Aberdeen there are certain lands which for some centuries back have been regarded as portions of the county of Banff. These are situated in the parishes of Gartly, New Machar, St. Fergus, and Old Deer, and have, it is believed, immemorially been assessed for all county assessments in the county of Banff, unless where special statutes have provided otherwise. They are entirely surrounded by Aberdeenshire, except where the seacoast touches, as in the case of part of St. Fergus. It is believed many similar cases occur throughout Scotland, but the origin of the practice it is supposed impossible to trace. In the Act of Parliament abolishing heritable jurisdictions (1746), these detached parts of counties are, as regards jurisdiction only, transferred to the counties by which they are surrounded. The effect of this provision is, that, as regards the administration of the whole civil and criminal law, these districts are transferred to the counties by which they are surrounded, and being so, the sheriffs, &c. of Aberdeenshire, and not of Banffshire, exercise jurisdiction in the districts referred to in the county of Aberdeen. And the expense of searching for and apprehending criminals, procedure by the sheriff and procurators fiscal for expiscating crime, and the whole expense of prisons and prison maintenance applicable to the districts referred to, fall upon the funds of the county of Aberdeen, and not upon those of the county of Banff. They do so as being under the direction of the sheriff, and as part of the necessary machinery by which he exercises the jurisdiction in the districts referred to, restored to him by the Act of 1746. But as that Act merely transfers as regards jurisdiction only, it leaves the power and right of assessing exactly as before, and there are no means of raising from those districts the necessary sums to enable Aberdeenshire to defray the expenses incurred on account of these districts. On the contrary, Banffshire continues to draw prison and rogue money assessments from the whole lands in these districts, while it expends nothing whatever under either head on account of them, while Aberdeenshire defrays the whole expenses regarding these districts, and draws nothing from them. The anomaly exists of Banffshire levying assessments in these districts and expending these assessments, not for them but for the rest of Banffshire, and of Aberdeenshire getting nothing from these districts and defraying the expenses regarding them from the assessments raised throughout the county proper. And there is nothing of a similar kind on the other side to counterbalance this state of matters, for there are no detached parts of Aberdeenshire surrounded by Banffshire. So important did this matter appear to the Commissioners of Supply of Aberdeenshire, that after the passing of the Lands Valuation Act of 1854 (under which the assessors entered the districts referred to both in Banffshire and Aberdeenshire) it was considered advisable to try the question in the Court of Session as to which county these districts really belonged, and where they were legally assessable; and the decision has been in favour of Banffshire. So that the anomaly and unfairness now exist in full and undoubted operation, and there is no remedy except by legislation. The anomaly of one county getting the assessments while another defrays those very expenses for which the assessments are levied, is so palpable that it would seem impossible to imagine any objection to an immediate remedy by a public statute applicable to all Scotland, wherever such cases occur. In several instances a partial remedy has been applied. Thus, in the Acts 42 Geo. 3, c. 47, and 44 Geo. 3, c. 20 (both now extinct), providing the means of erecting a "house of correction" for the city and county of Aberdeen, the districts referred to were for the purposes of these statutes expressly included in Aberdeenshire. The Reform Act (2 & 3 Will. 4, c. 65) in like manner contains this clause: "Providing always that all properties lying locally within the limits of any county or shire, though hitherto constituting part of some other county, shall, for the purposes of this Act, be held to be part of the county within which they are locally included." And the New Police Act, 20 & 21 Vict. c. 72, sections 35, 36, 37, 38, and 39, contains full and explicit enactments to the same effect. But in regard to prisons assessment, rogue money assessment, and all other assessments which from time to time are imposed following the rules of the prisons assessment, or applicable to the county generally, the anomaly referred to exists in full operation. It is thought that the matter could at once be put right by an Act applicable to all assessments and wherever the case occurs throughout Scotland.

1206. Have you occasion to know whether any railway passes through several parishes; one passes through Old Machar, does not it?—Yes.

1207. Do you know whether the rate of deduction on the railway is similar to yours or whether it varies in different parishes throughout the county?—I believe they are very various throughout the county.

1208. You have no positive information?—No; I can only speak as to some parishes where my firm have the charge of lands, and there I know there has been correspondence going on. I could not give any instance beyond this, but I believe they are very various.

1209. That is to say some railways get a different rate of reduction in different parishes?—Quite so.

1210. Mr. *Blackburn.*] I think I understood you to say that the heritages are the subject of taxation and not the proprietor?—Yes.

1211. It is the property that is the subject of taxation and not the proprietor?—The lands and heritages are the subject of taxation.

1212. Therefore, it is no question whether they are in debt or not; the heritage would pay the same whether the rent goes to one man or to another man. The heritage shall always remain taxable according to its value?—Yes.

1213. Then there is no reason for deducting mortgage interest?—I do not say there is, but I say there is as little reason for deducting any other expenditure for repairs.

1214. Supposing there was a fishery let in which the tenant finds boats and nets and labour, and

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and the landlord only lets the power to draw them through the water, there is no deduction that ought to be made from the rent in that case, for there is no expense falling on the landlord. Is the landlord put to any expense?—The rule of the Act of 1854 is, that where the tenant does anything which the landlord would otherwise be bound to do, that ought to be an addition to the rent.

1215. I am putting a case where a piece of water is let. The landlord is not bound to find a boat or a net. The tenant must find all these things himself. Ought any deductions to be made from the rent in that case. Is not the gross rent the net rent also in that case?—Quite so.

1216. And there should be no deduction?—I think not.

1217. Now, supposing a landlord has a piece of land which is put in very good order and manured, and lets it for one year to a tenant to take a crop of potatoes; ought it to be assessed on the price the tenant pays for that one year, supposing he pays 10 *l.* an acre?—I think the rule is, the assessment is to be on one year with another.

1218. Then it would not be taken at the gross rent, but at what it would let for on an average of years, when it was in an average condition?—I think so, unless the assessor would hold himself tied down by the rule of the Act to the actual rent, the lease being under 21 years.

1219. Then you think it would be just and fair that in that case he should be assessed for 10 *l.*; that is, supposing the 10 *l.* an acre were paid for the one year's crop?—Did you say the landlord had manured the land?

1220. I am supposing the landlord to have manured the ground, and to have put it in such good order that he could get 10 *l.* an acre in that year, when the land was not on an average worth 2 *l.* an acre?—I must look at the clause.

1221. I do not mean to say as to what is the law on the subject, but do you think it would be just and fair?—I think if the land has been managed in usual rotation, and the landlord lets for one year——

1222. For the purpose of that year, which would be exhausted in the year?—In that case probably I would be disposed to make some allowance. It is very doubtful. If the land has been managed in usual rotation and then let to a tenant who goes on with that rotation, the rent payable by the tenant——

1223. What would you give from year to year on an average; it is the gross produce of that year; in fact, the crop of potatoes may be held to be the gross produce of that year. Would you take the gross produce?—I would never take the gross produce in any case as long as I could get the distinction between the rent and the produce.

1224. It is the net value, in fact, that you think ought to be assessed, if you can find it?—The rent.

1225. The net rent, after all necessary expenditure?—Payable by the tenant to the landlord.

1226. The tenant doing all the expenditure himself, keeping the subject in repair?—Doing all the tenant's expenditure.

1227. But if you take a perishable article that would be worn out in the course of the year if it was not repaired, should you not deduct the necessary repair the landlord must give to the subject?—I conceive that rent should mean the same thing throughout; and if no deductions for repairs are given in regard to buildings or property of that description, then, of course, no abatement in respect of repairs should be given in such cases as you have referred to; and if the tenant undertakes the repairs that I would hold to be a grassum or consideration in addition to the rent.

1228. I put the question first of a fishery. There are no repairs whatever. It is quite right the landlord should be taxed on the whole rent he receives in that case; but, supposing he lets another subject which does require repairs, should those repairs not be deducted, to put him on the same footing with the landlord of the fishery?—My view of it is, that you cannot reach such an object as putting the parties on the same footing, because, I have mentioned, there are so many distinctions betwixt one property and another, betwixt one sort of burden and another, that unless you are to give deductions for every kind of burden you cannot reach it at all. And there is no greater injustice in declining to give repairs, than in declining to give other deductions, and therefore you must take the subjects at the rent.

1229. Cannot you come nearer it by endeavouring to get the net value than by merely taking the gross rent without reference to necessary deductions at all; can you come nearer justice in one way than the other?—Not satisfactorily.

1230. I think I heard you say, in some cases in house property it was evident some were only worth 2 or 3 per cent. to repair them, while others would take 20?—Yes.

1231. How is that evident; can you see it when you look at a house?—Oh, yes; but you cannot give the precise figures.

1232. If there were two houses for sale beside one another, would you have any difficulty in getting a valuation of the two houses, one being out of repair and another being in good repair?—You might put two or three valuators upon them, but if you put them separately they would give you different opinions.

1233. Is it not a fact, that a house in bad repair is worth less money than a house in good repair?—There is no doubt of that.

1234. Then would it not be nearer justice if you rated them according to the value the valuators put upon them?—You have all the disadvantages of difference of opinion between the valuators themselves, and also of the difference of opinion between the valuators and the ratepayers; and I should say it would give rise to heartburnings, as I have mentioned, and to disputes of all kinds.

1235. Do you not think that a man whose property is subject to great repairs has more cause to complain if you make no deductions at all than he would have if you endeavoured to meet the case by giving him some deduction?—Practically, I have not found it so, because I have found the same satisfaction with my roll without any deduction as I did when it had deductions.

1236. Mr. *Leslie.*] What is the population and the rental of the county?—The population of the county in 1861 was 221,569, exclusive of the boroughs; and the rental in 1864-65, the present year, is 662,253 *l.* 0 *s.* 4 *d.*, exclusive of the boroughs, but inclusive of 32,577 *l.* 11 *s.* for railways.

1237. What

1237. What is the number of entries on the roll?—The number of entries on the roll was about 19,000.

1238–9. You stated that the practice in the county of Aberdeen before the passing of the Lands Valuation Act was to allow no deductions; that after the passing of that Act till the passing of the Prisons Act you allowed 7½ per cent. on land property, and 15 per cent. on house property; and that after the passing of the Prisons Act in 1860 you ceased to allow any deduction?—Yes.

1240. Did that give rise to dissatisfaction?—No, certainly not.

1241. Did the county adopt the provisions of the Act which enabled them to have the services of the Government assessor?—Yes.

1242. Has that been advantageous?—I think it has been very advantageous, not only in the saving of expense, which is very great, but in the satisfaction of the ratepayers having only one officer to deal with instead of two, and of course the saving of expense seems to me to be obvious, because by employing two we would just be employing two officers to do the same work.

1243. The making up of the roll costs nothing?—It costs nothing to the county of Aberdeen, but the small sums payable to the clerk of the Commissioners of Supply for making and transmitting of copies to the Parochial Boards; but that is very trifling.

1244. If the county had their own assessor, what might it be likely to cost, do you think?—The first few years, I think, it cost upwards of 1,500 *l.* a year, but probably it would not be so much now; at the same time it would be a very large sum.

1245. Sir *Graham Montgomery.*] How much do you think it would be now?—It is very difficult to tell.

1246. Five hundred pounds a year?—More than that; in the city of Aberdeen it costs 500 *l.* or 600 *l.* a-year; they have an assessor of their own; we have not, and I should say, in the county, it would not cost less than 700 *l.* or 800 *l.* a year.

1247. Mr. *Leslie.*] How many entries are there in the roll?—About 19,000.

1248. And what number of appeals, generally speaking, from the valuation of the assessor of the county?—The total number of appeals for the year 1864–1865 were 41.

1249. And how many of these were dismissed in absence?—Thirty were dismissed in absence, and only 11 discussed.

1250. Were any referred to the Court of Session? — There were 11 cases discussed, and of these there was only one taken to the Judges in Exchequer. The previous year there were 41 cases; 31 were dismissed in absence, 10 were discussed, and, of these 10, one case was craved to the Judges, but it was dropped.

1251. What is the usual mode of levying the poor rates in the county of Aberdeen generally?—It is generally by the first mode of the Poor Law Act with or without classification as regards occupiers; that is, it is generally by the one-half from the proprietors, and another half from the occupiers, and according to the rents, as in the Lands' Valuation roll.

1252. And with or without deductions, generally speaking?—I am not well able to state, but I know several parishes where my firm has the charge of property, where there are no deductions given at all.

1253. In the parish of Old Machar, what is the rental?—In that parish the rental, after all deductions, is 86,260 *l.*

1254. You allow certain deductions, I think you stated?—Yes; the 86,260 *l.* is after the deductions.

1255. Your own opinion is against the principle of deduction?—Yes, for the reasons I have stated.

1256. Would you think it advisable to have any piecemeal legislation in a matter so very important as the Lands' Valuation Act?—No; I think, if there is to be any legislation, it should be uniform, if possible, and should embrace the whole of the matter.

1257. Mr. *Dalglish.*]—What is your mode of levying the rates in Aberdeen?—In the county?

1258. In the county?—We give no deductions, as I have stated. We take the valuation roll, and the valuation roll is completed by October for the year from Whitsunday preceding to the Whitsunday following. I make a copy of it, as collector; that is, I examine it, and take the sum of each property. I have only to deal with the proprietors. I take the necessary information from it, and make up my assessment roll from it. My assessment roll is completed as soon as possible after I get access to the valuation roll and the assessments calculated. Notice is issued, and it is recovered between the middle of December and the end of April; I then make my annual balance on the 15th May in each year.

1259. Mr. *Leslie.*] That is for the county rates?—For the county rates.

1260. Mr. *Dalglish.*] How is the valuation roll made up; I suppose you have nothing to do with it; who makes it up?—It is the Government surveyors as assessors under the Lands' Valuation Act.

1261. Can you give us any information upon what principle the roll is made up?—I cannot, except that they have the Act in their hands, and they issue requisitions for returns of rents, which they get; and if they do not get them, they must make estimates according to the best of their ability, and they must, by their own judgment, correct the returns which are made to them; and in some cases probably, although I am not personally aware of the fact, they would call for leases so as to ascertain the question about considerations or grassums given, to enable them to carry into effect fully the provisions of the Act, requiring them in such cases generally to avail themselves of all their information, and to make up the roll.

1262. You say there are no deductions; the assessor makes no deductions whatever?—There are no deductions.

1263. He takes the gross rent, and makes up his valuation roll?—He conceives he has nothing to do with deductions.

1264. Major *Cumming Bruce.*] Could you have any certain data by which you might fix equitably the real expense to which the proprietor of a heritable subject of land is put for maintaining the subject at its average value?—I fear I cannot give it more specifically than I have already attempted to do.

1265. You have no deduction, I think you said?—We give no deductions.

1266. Do you think it would be impossible to equitably ascertain what they were on properties generally?—

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generally?—I am of opinion that it cannot be done with equity, though attempts may be made to do it.

1267. Mr. *Mackie.*] What is the state of the land tax in your neighbourhood; is there much of it redeemed?—I cannot state the proportions; I redeemed the land-tax on my lands; but I could not speak as to the proportion that is redeemed.

1268. Would you think it advisable to make the redemption of it compulsory by Act of Parliament, in order to get rid of the anomaly of laying on taxes on the valued rent; it is, I believe, one of the few taxes which is laid on the valued rent?—Such a proposal would require a good deal of consideration; probably something of that kind would be an advantage; it would be an advantage to get the properties placed on one footing, instead of some having land tax to pay, and others not, but it would require a good deal of consideration and investigation before pronouncing upon the expediency of having legislation to that effect.

1269. There are no other classes of proprietors who make complaints in Aberdeenshire as to the present mode of assessment, with the exception of the railways?—I have heard of none whatever.

1270. *Chairman.*] Do the parochial boards find any difficulty in the delay occasioned in laying on the assessment from the rolls not being prepared till the month of October?—I have not heard of any, practically.

1271. Do you lay on your assessment in Old Machar before the roll is prepared; on the roll as it has to be finally adjusted, or, before voting the assessment, do you wait till the roll is completed? — Well, I think that probably those parishes which are near Aberdeen may be able to get the way prepared for the work, as the roll proceeds; that is, before the Appeal Courts are over; but in the country, the Appeal Courts probably must be over before the clerk of supply can be in a position to send them the completed roll; but I believe that that is done almost immediately after the Appeal Courts are over.

1272. Does your parochial board not meet to impose its assessment for the poor till after they get the completed roll?—Yes, they do; they meet in the month of May to impose the assessment.

1273. Then they do not feel the difficulty of the roll not being made up?—They do not see the new roll, but they know the old roll, and they get just as good information for the purpose of imposing the assessment from the old roll as they could have from the new.

1274. Then they can make any corrections before levying the money?—Yes.

Mr. Alexander Cameron, called in; and Examined.

Mr. *A. Cameron.*

1275. *Chairman.*] What are you?—I am clerk of supply of the county of Elgin. I am not the collector of the county rates, but I am the auditor of the accounts. I am also the distributor of stamps, and collector of legacy and succession duties.

1276. Would you explain to us how in your county you conduct the imposing and levying rates?—The county rates are now imposed, as far as they can be, with the exception of the land tax, upon the real rental; but, until the last twelve months, they were collected upon the old valued rent.

1277. Until so late as last year?—Yes. There was no action taken about it; but upon my suggestion, in the terms of the Lands Valuation Act, the motion was made that they should be levied in future upon the real rent; and this is the first year they have been collected upon the real rent.

1278. None of the rates have ever been hitherto upon the real rent?—None of the county rates, except the police and prison assessment, which, of course, under the Prisons Act of 1860, was obliged to be levied upon the real rent; but previously to that Act it was levied upon the old valued rent.

1279. Then, in levying these prison rates, prior to 1860, did you make any deductions for repairs?—They did not make any deductions upon the old valued rent.

1280. You levied part of the prison rates until 1860, I understand, on the real rent?—No; I do not think they were levied at all on the real rent until after 1860. I have only been clerk of supply four or five years, so that I am not able to speak positively as to that. We had nothing to do with the Government control until the new Act came into operation. It was a sort of private police force established by the county gentlemen themselves; and I think they levied it upon the old valued rent. In fact, I am certain that they did so, because I recollect the collectors getting an addition to their salaries when the assessment for police was levied on the real rent. They said it was much more trouble, and they had so many people to collect from.

1281. Major *Cumming Bruce.*] I wish to ask the witness whether he has any information as to the burdens on land, and general expenses of repairs in the county of Elgin?—Yes; I have got here some returns which I have taken from several different estates in the district. Upon one estate, of a rental averaging up and down about 5,000 *l.* a year, the burdens, minister's stipends, school salaries, church repairs, poor-rates, both for landlord and tenant, road money, land taxes, county assessment, the repairs of roads, ditches, dykes, and other repairs on the estate, buildings, and repairs of the same, and management, and insurance upon a rental of 4,940 *l.*, came to 1,320 *l.*, or about 27 per cent. of the rental, giving 14¾ per cent. for taxes, burdens, minister's stipend, and other taxes; and for repairs and management 12 per cent. The average for five years for another estate, on an average rental of 5,540 *l.*, and is for burdens 14 per cent., and for repairs 17 per cent.; making altogether 31 per cent., including management. Upon another estate of a rental of 7,000 *l.* a year, partly in Elgin and partly in Ross, partly a Highland estate, the burdens are heavier: 22 per cent. on the rental, and 13½ per cent. for keeping the buildings and articles, &c. in repair.

1282. Have you any others?—There is an estate of 18,000 *l.* a year altogether, in the county of Elgin, an arable estate, where the stipend, school salaries, poor-rates, road money, and other local taxes are equal to 14½ per cent. on the rental; the repairs to dykes, ditches, and fences, and

and churches, manse, and farm-buildings, and repairs, and renewal of farm-buildings, 11½ per cent., making altogether 26 per cent.; that is on an average of two years.

1283. Do you know what number of tenants there are on that estate?—There are 322 tenants upon that estate, many of them small tenants.

1284. What proportion of those 300 are what you would call small tenants?—I find there are 200 tenants below 50 *l.*; 71 between 50 *l.* and 100 *l.*; 30 between 100 *l.* and 200 *l.*; 13 between 200 *l.* and 300 *l.*; 5 between 300 *l.* and 400 *l.*; 1 between 400 *l.* and 500 *l.*; and 2 between 500 *l.* and 600 *l.*

1285. Is the number of tenants likely to add considerably to the expenditure for keeping up the estate?—It must add very much to the expense, from the keeping of so many small farm steadings in repair.

1286. Generally, in the county of Elgin, are the estates divided into small or large holdings?—There are a great many more small tenants than large tenants. This estate may be taken as a criterion of a number of others. Here is another estate which I got for some 3,000 *l.* a year. There are 85 tenants, 64 of them below 50 *l.* a year. That is part of the estate I mentioned to you first. Part of it is in Elgin, part of it in Banff, which is a good deal mixed up with our county.

1287. Can you give any general average?—I have another estate here of between 11,000 *l.* and 12,000 *l.* a year, entirely in Morayshire, partly a lowland estate, and partly in the upper district of the county. The burdens are altogether 25 per cent.; I have only got this return for the year 1862; but I am told that it is one with another very much the same thing. They amount to 25 per cent., 10 per cent. of that would be for repairs and expenses of management, and 15 per cent. for burdens.

1288. Then you would say that the general deductions before the proprietor puts his rent into his pocket, amount in the average to between 20 to 25 per cent?—It would run from 25 to 30 per cent. I find.

1289. Do you know whether the assessor for the county, there is a private assessor where there is a county assessor, does he make any classification and allowance for deductions on the valuation roll?—No; he makes no allowance whatever.

1290. It is upon the gross return?—In most cases he gets a return from the collectors upon the estate of their rental, and where the lands are let to yearly tenants he puts in the sum returned to him by the land steward of the estate or by the factor. If they are in the natural occupation of the proprietor, the assessor for our county goes over the ground and puts a value upon it as to what it would let for one year with another.

1291. Have there been many appeals against the valuations which he has put on various properties?—Within my knowledge there have not been any appeals against the county assessor's valuation. He has been able to adjust the value with the proprietors without bringing the matter before the county.

1292. Do you know any facts upon which you could state the per-centage of repairs necessary upon house property; those that you have been speaking of are landed property?—Entirely landed estates. I have no similar statistics for house property; but I should say the burdens upon town property, for instance, in the town of Elgin, the taxes would come to 3 *s.* or 4 *s.* in the pound, between police rates and one town tax and another. The repairs, I should think, would average upon good house property not more than from 5 to 10 per cent. House property in Scotland is much more substantially built than it is in England. In our district, especially, we happen to have abundance of stone, and the houses are generally very substantially built of stone, lime, and slate. Even the poorest class of houses are now built of stone, and lime, and slate.

1293. Mr. *Leslie.*] They originally cost more?—Of course, the cost is considerably more.

1294. Major *Cumming Bruce.*] Is there any deduction made on those houses?—Deductions are allowed in assessing the properties for poor-rates, I think, generally upon house property in Elgin, at the rate of 10 per cent. I am not certain that I can state the exact sums. Land has smaller deductions than houses; I think it is about 7 per cent. The railways have generally got deductions in the different parishes in our neighbourhood of from 18 to 24 per cent. It has been a matter of arrangement generally to save parishes going to law with the railways about it.

1295. Do you know the amount of the value of the railways in the county?—The value of the railways in the county is about 16,000 *l.* in round numbers; all the railways, as entered in the valuation roll.

1296. The amount at which they are valued by the assessor, you mean?—By the assessor; yes. The returns, according to their own showing, are much larger. Our principal railway in the county is the Inverness and Aberdeen Junction. Their nett revenue for 1864, their accounts only embrace 11 months, but putting an additional month at the same rate as the other 11 months, the nett revenue divided amongst the shareholders would amount to 43,500 *l.*, and the amount entered in the valuation roll is 22,600 *l.* The Great North of Scotland Railway, which is also partly in our district, it comes partly into Morayshire, in the year ending the 30th January 1864, showed a nett revenue of about 72,000 *l.*; and the revenue upon which their assessment is levied is only 25,000 *l.*

1297. With what deductions is that?—After deducting all working expenses, which also include the maintenance of way, amounting to about 7,000 *l.* a-year, as given in their accounts; these are all deducted with the working expenses every half year from the 72,000 *l.* which I have stated as the amount divided among the shareholders, and for the payment of the interest upon the debentures.

1298. Mr. *Blackburn.*] Is it all in one county?—No, partly in Aberdeen, partly in Banff; they now come into Elgin by having a working agreement with the Morayshire railway.

1299. Major *Cumming Bruce.*] At what sum are they returned by the railway assessor?—They are returned by the railway assessor for 1864 at 25,207 *l.*

1300. Mr. *Blackburn.*] That is for the part in the county?—That is for the whole of the railway. I obtained a certified copy of the entries in the different valuation rolls.

1301. Major *Cumming Bruce.*] What is the margin of difference between the sums returned to the valuation roll, and the sum you have stated as the nett returns of the railways?—The difference

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ence is between 25,000 *l.* and 72,000 *l.*; between 40,000 *l.* and 50,000 *l.*

1302. Is that 72,000 *l.* divided as profits of the returns from the railways to the shareholders, or in any other way?—It is either given to the shareholders or to the bondholders. They gave in one half year in dividends 33,000 *l.*, and in interest 289 *l.* odd; and the next half year the debenture interest was 8,400 *l.*, and the dividends 29,000 *l.*

1303. Then there are certain allowances made by the railway assessor, before the returns to the valuation rolls for the general assessment?—There are large deductions.

1304. To what extent are those deductions?—On a previous occasion I heard the railway assessor state his deductions at 30 per cent. upon the value invested in the plant. He ascertained from the secretaries to the railways what was the amount expended by them upon plant; he then allowed 5 per cent. for interest on the money invested in the plant; 15 per cent. for tenants' profit as carriers, and 10 per cent. for deterioration of plant, making altogether 30 per cent. He deducted that from the revenue, besides working expenses, before he made up the valuation roll; but at the same time he stated that he did not allow anything for the maintenance of the way, that that would have to come out of the valuation. Those deductions are better seen by looking at the nett sum divided among the shareholders, and then the sum upon which the railways are entered in the valuation roll, and upon which they pay rates and taxes, the same as other property.

1305. Are there any deductions made to the railways which are not extended to landed property, as entered in the valuation roll?—Yes; a part of the working expenses comprehend their general expense of management.

1306. What do you mean by "expense of management?"—I mean the salaries of the secretary and directors, and the other expenses connected with the management. In the Inverness and Aberdeen Junction Railway, for the year ending 31st January 1864, upon which the valuation for 1864 is made up, in the working expenses are included directors' salaries, secretaries' salaries, law expenses, insurance, &c., amounting to 4,257 *l.*

1307. Are not similar deductions made for the management of landed property?—No; no deductions are made.

1308. Are any made upon agricultural land?—No, nothing.

1309. Then there is no allowance for landed property as compared with the allowance deducted from the railway before it is valued; what does that amount to from the railway; what is the amount of the deductions made to railways altogether from the nett revenue?—It varies very much. In the case of the Aberdeen and Inverness Junction, there seems to be about half; and, in the case of the Great North of Scotland, very nearly two-thirds.

1310. Before it goes to the valuation roll?—Before it goes to the valuation roll.

1311. That is from the nett revenue?—That is from the nett revenue.

1312. Earned by the company?—Divided by the company.

1313. So that it would appear there is an allowance of two-thirds to the railway, but there is no allowance of any sort to the landed property?—Exactly.

1314. You say you allow a certain amount for deterioration of the stock, have you any information as to the average expense of keeping railways in repair, as compared with other property?—I find that the expense of maintenance of way for the Inverness and Aberdeen Junction Railway, for the year ending in January 1864, is 4,319 *l.*, or equal to about 10 per cent. of their nett revenue; and if you take the year ending in July 1864, it amounts to 6,246 *l.*, or about 13 per cent. on the nett revenue; and, of course, a much larger per-centage upon the sum entered in the valuation roll.

1315. With regard to the burdens upon landed property, are they pretty stationary, or are they increasing rapidly?—They are increasing, I should say, in the county of Moray. At present we are building a new lunatic asylum, and a new court house, and a new poor house for the county, all of which will increase the burden upon land.

1316. Would the railway property be liable for any assessment for them?—As it at present stands, they will.

1317. To the extent to which it is entered in the valuation roll?—To the extent to which it is entered in the valuation roll.

1318. Would they be liable to some expense for the maintenance of lunatics?—They will.

1319. Do not you think it might be said that if the railways do not contribute to the increase of lunacy, it would be fair to let them off?—I do not know; they say too much travelling in a railway train upsets a man's head sometimes.

1320. What is generally included in the working expenses of railways?—The working expenses, as stated in the railway accounts, are locomotive power, traffic expenses, salaries of traffic managers, superintendents, and storekeepers, wages of engine-drivers, and all that sort of thing; repairs of carriages and waggons, maintenance of way, the general expenses of the directors, auditors, secretaries, managers, accountants, furniture for stations, repairs, printing, advertising expenses, insurance, law expenses, and feu duties, rates, and taxes.

1321. All those sums are deducted before there is any dividend made from their property?—Before there is any dividend made from their property all those sums are deducted.

1322. What amount of deduction do railways in the county of Elgin get from the poor rates?—I think it varies from 18 per cent. to 24; and in some parishes, I believe, they have given deductions to other properties in the same way, which almost neutralises the deductions to railways; where the parochial board are of opinion that the assessment should be levied on the gross rental.

1323. In general do they levy on the gross rental, or do they give deductions?—They are bound to give deductions in the Poor Law Act; but they often give deductions to other properties to neutralise the heavy deductions claimed by the railway company.

1324. *Chairman.*] That is to evade the Act?—That is to evade the Act.

1325. Major *Cumming Bruce.*] Then, with regard to any deductions, if the thing was to be altered, and any deductions were to be given upon land, what do you think ought to be the deduction from landed property under the terms of the Valuation Act?—I cannot speak much, except in connection with our own county; and there

there I should say it seems to run from 10 to 15 per cent.; but the burdens upon the estates vary very much in different parts of the country. There is a thing which occurred to me since I came into this room. There is an estate with which I am well acquainted, in the immediate neighbourhood of Elgin, which pays 70 *l.* or 80 *l.* to the minister's stipend; and there is an estate which belongs to myself, in the county of Roxburgh, of about the same value, which only pays 12 *l.* or 13 *l.* to the minister's stipend. So that from that, and from the difference in the various estates which I have referred to here, some of them, amounting to 35 per cent., and others to only 20 or 21 per cent., I am afraid you would not come any nearer to an equitable adjustment of taxation by making a deduction over all landed estates of so much per cent., over houses of so much per cent., over railways of so much per cent. You would be giving some estates a great deal too much deduction, and others too little; and if you leave it to the different assessors to make the deductions, I am satisfied we should have endless appeals by people complaining that they were differently treated from their neighbours; and, instead of not having such a thing as an appeal in the county of Elgin within my recollection, I think the Commissioners of Supply would have to sit for a month to adjust them every year.

1326. But if there were no deductions made of any kind, supposing that deductions were abolished, and the assessments levied upon the gross valuation, as in such a case as you have mentioned of a small estate paying 80 *l.* for a minister, if he were assessed without any deduction, there would be an injustice?—There is an injustice in it; but in all taxation there is a certain amount of hardship. It is impossible to fit the burdens exactly to every person's back; and it appears to me from my own experience, that there is less injustice done by assessing upon the gross rental than there would be by giving rates of deductions to different kinds of property.

1327. You referred to certain landed estates, of which you had returns in your hand; have you good reason to rely upon the accuracy of those returns?—I am quite certain of the accuracy of them. I have made them with my own hand, except in one case, from the accounts settled and signed at the end of the year.

1328. Mr. *Dalglish.*] Are the ratepayers generally satisfied with the present mode of raising the assessment?—We have no malcontents in our district, except the railways.

1329. I think you said you had very few cases of appeal?—We have had none at all in my recollection in the county.

1330. That is the best proof possible of the satisfaction of the people?—Well, I should so say.

1331. Mr. *Mackie.*] Would you approve of a compulsory Act to redeem the land tax, and so do away with the anomaly of paying that tax upon the valued rent?—Well, I should prefer to see it done away with, as far as I am concerned personally. It is an anomaly now-a-days to levy a small tax which only produces 47,000 *l.* or 49,000 *l.* over the whole kingdom upon a valuation made 200 years ago.

1332. Is there much land tax unredeemed in your county?—I cannot say. The amount collected in the county of Elgin is 760 *l.* a year; it does not vary. It is collected upon the old valued rent, and we have annually to furnish the collector of taxes with a copy of what is called the cess roll, in which the amounts are almost the same, unless any applications are made to the Commissioners of Supply to split the valued rent. If part of an estate was sold, the proprietor would come to get the land tax divided between the part sold and the part that he retains; but it is such a trifling tax that I think it would be much better, if it was the general desire of the people who pay it, that it should be done away with.

1333. Mr. *Blackburn.*] I think in the landed estates you speak of that there is a considerable quantity of live stock, is there not?—Oh, yes; there is a good deal.

1334. Is there any rate upon the value of that?—No.

1335. And it is right that the rolling stock of the railway should also be deducted, and the price upon the rolling stock before the rate is found?—It is quite reasonable that the deduction should be made for the rolling stock.

1336. In the same way, the farmers who hold these lands make their own livelihood out of the farms besides the rent they pay?—They ought to.

1337. And the expense of management is deducted before the rent is paid by the farmer; he makes his living and profit before he pays his rent?—In the return I gave, the management I referred to was a different thing altogether.

1338. But as far as the working of land is concerned, the management is paid before the valued rent is found?—Certainly; as far as extracting the profit goes.

1339. It is equally just that the management of a railway should be deducted before the profits of the railway are taxed?—I quite agree that the profits of the railway as carriers should not be at all entered in the valuation roll, and that is not done.

1340. And upon all their rolling stock?—All their rolling stock, certainly.

1341. First, as to the management of the estate, if the proprietor chooses to manage it himself, he will have nothing to pay for that?—The proprietor's time should be worth something.

1342. In all cases, if a party saves his own time by hiring, the value of the property that is managed remains the same whether he manages it himself or whether he hires somebody to do it for him?—He can put his own time to other uses; and if he is able to apply it to manage his estate, he ought to be allowed something for that, as well as the railways are allowed the salaries of their directors and secretaries.

1343. If the property were sold, would the expense of management be deducted from the value?—Any person who buys the property must take it into consideration that there are certain expenses connected with the management of his land.

1344. About the stipend; is it not held that the church is joint proprietor of the land; that it is not a deduction, but it has a joint property in the land?—So the clergy say.

1345. Is it not held to be the law?—I do not know; the landlord must pay it. It is a burden; it is in place of teind.

1346. Then it is a property, and not to be deducted as a burden; it is a case of property; the party does not pay rates upon it, but it comes out in the profit?—But it is a burden all the same.

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1347. Major *Cumming Bruce.*] Mr. Blackburn asked you one question in regard to the stipend, whether you considered it was a burden on land or not; in the case of new churches built in a parish, can you state anything as to the general expenses to which in some parishes they go, whether they come sometimes to near the whole amount of the rent of a parish?—I knew a church burnt down a few years ago in our neighbourhood, and it took very nearly a year's rental of the parish to rebuild it.

1348. Did they get any deduction from that absorbtion of nearly all the rent of their parish?—Oh, no; they were compelled to pay all the taxes the same.

1349. It was the loss of the whole rent of a year on which they had to pay according to the valuation roll?—Yes.

1350. I asked that question, because I stated the other day that I had in one instance paid the whole rent, and it seemed to take some gentlemen by surprise; but here is another case mentioned a few years ago, where it appears a new church being built had nearly swallowed up the whole rent?—That happens whenever a church is now about to be built, because they require churches of a much more expensive kind than they used to be content with.

1351. Mr. *Blackburn.*] You think upon principle there ought to be an allowance made for these contingencies and repairs, and building churches, and so on?—If any deductions are to be made, I may state, I do think so; and I may state that, in settling the succession duty upon land for the Government, that, in accordance with what is done at head-quarters, we allow deductions for all the burdens upon land, minister's stipend, school-masters' salaries, road-money, taxes, insurance, everything of that sort which the proprietor can show; and after all that is done, the Government allow him to add 4 per cent. upon gross rental for the repairs upon buildings, &c.

1352. To deduct 4 per cent. additional?—Yes; besides all the burdens.

1353. Sir *John Ogilvy.*] After having deducted all the burdens?—Yes.

1354. To take the remainder?—That is the rule adopted.

1355. Mr. *Blackburn.*] Do you find any practical difficulty in making these deductions, and so coming to the nett value for the succession duty?—None in particular, because every estate is dealt with by itself; and the factor produces his account for the previous year.

1356. Then there would be no difficulty in finding the nett value for regular purposes of assessment?—Well, if you are to adjust every estate every year, there would be no difficulty in doing it; but it would involve an immense amount of labour.

1357. If you had found the average expense upon this estate, would it not be altered every year?—The expense increases as the rental increases.

1358. It would be a per-centage according to the rental?—Yes.

1359. And the deduction would remain the same?—I find, in these estates to which I have referred, I just took five years at random; that the first year I got a rental of 4,940 *l.*, and the burdens were 1,330 *l.*; the next year the rental had risen to 5,460 *l.*, and the burdens were 1,978 *l.*; then in the next year there is 5,590 *l.* against 1,900 *l.*; and in the next year, 5,792 *l.* against 1,796 *l.*

1360. What do you call burdens there; supposing you are building a new farm-house, is that included?—That is included.

1361. It is expenditure not merely on repairs and maintenance, but on improvements also?—The improvements are entered immediately in the valuation roll; they are merely renewing farm buildings; if farm buildings fall into decay, they must be renewed.

1362. But if these were improved farm buildings, and the rent was higher in consequence of the improvement, it is right enough that he should be additionally assessed?—Then the proprietor is taxed on the additional rent.

1363. *Chairman.*] In your estimate of burdens in the rates, I think you included the rates on the tenants?—In the poor rates I did, because the poor rates have now been in existence for more than the average duration of leases in Scotland. Poor rates were imposed 20 years ago by the Act of 1845; and now every tenant, in taking his farm, knows that he has got certain deductions to pay, so that I hold that the land pays the whole poor rate.

1364. That is to say, he offers a smaller rent, but from the existing rent there is no deduction of what the tenant pays?—The landlord would have so much more rent.

1365. Would have had more but he has not more, and so you in a way deduct it twice?—It might appear in one way so.

1366. In point of fact, the tenant's share of taxation is included?—It is included.

1367. How much may that be?—It would range from between 4 to 5 per cent.

1368. The tenant's share?—The tenant's share; I think the poor rates generally in our part of the country, putting out of view some exceptional cases, are probably from 8 to 10 per cent., from 1 *s.* 8 *d.* to 2 *s.* in the pound.

1369. That would diminish the burdens by about 4 per cent.?—Yes.

1370. How much do you allow for management?—I just allowed what was charged in the different accounts.

1371. About what per-centage is that?—I find, upon an estate of between 5,000 *l.* and 6,000 *l.* a year, that management would run from 200 *l.* to 250 *l.*; say 200 *l.*

1372. Major *Cumming Bruce.*] That would be 4 per cent, I believe; that is about the average?—With an estate of 18,000 *l.*, the management comes to 837 *l.*

1373. *Chairman.*] How much per cent. do you allow for repairs of farmhouses?—About 5 per cent.

1374. Does that include renewal, or merely repair?—That includes the renewal of houses, but it does not include the repairs in ditches, fences, and all that sort of thing; that would amount to about 2½ or 3 per cent; it varies very much.

1375. You have given an average; can you state whether there has been an increase of late years in the burdens on land; is that on land as contra-distinguished from other property, or merely heritable property?—All heritable property I refer to.

1376. In fact, from what you said about the change from the valued rent to the real rent, that effected a considerable reduction on the land in your county?—It equalised the assessment very much.

1377. It

1377. It brought in a great deal of property which is not in the valued rent roll, and so relieved very much that which had been in the valued rent roll?—It relieved some of the old estates.

1378. It relieved the land very much?—In fact, I was led to suggest the thing from seeing that in the old valued rent roll there were some properties which were rated at a very different value 200 years ago, and I pointed out this to the agents of the proprietors, and said it was their obvious duty to equalise the thing if they could; and it was done accordingly.

1379. The rate was then laid on according to the valued rent; it did not touch houses, railroads, or manufactories; in fact, nothing but the land?—Nothing but the old landed estates.

1380. And when you adopted the real rent, you brought in a large mass of property to share the burden with the land?—Yes.

1381. So that in your county the land has been pretty largely relieved?—Well, the county rates there did not amount to a large sum; some hundreds a year was all it amounted to.

1382. Then, as to deduction of burdens on land; the rates, I mean, of different kinds; these could be ascertained by an assessor quite simply by getting a return from the proprietor of the amount?—He could, but there would be great disputes as to what would be allowed as proper deductions.

1383. There would be no disputes as to the amount of the rates, not as to the rates and taxes?—They could be ascertained, of course.

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1384. So that any difficulty would apply only to the deductions for repairs and matters of that kind?—Of course, the actual outlay for taxes could be ascertained year by year.

1385. So that any dispute arising would be limited to the matter of these deductions?—There would be no objection to entering in the valuation roll the amount paid for taxes; but the difficulty would be when you came to put in an account for repairs.

1386. And so that inequality between your estate and the estate in the county you have mentioned, as to the difference of stipend, that could be obviated without difficulty?—Oh, yes; that could be easily obviated.

1387. Major *Cumming Bruce.*] Has the land tax been generally redeemed in Elgin?—No, not generally. The bulk of the estates pay land tax. It has been redeemed in very few.

1388. Do you think it would be desirable in any Act altering the valuation, that there should be a compulsory clause that the land tax should be redeemed in all properties; it has been redeemed on some properties?—I have already stated, in answer to an Honourable Member, that I thought if the landed proprietors generally of Scotland were anxious for such an enactment, that it would be a very desirable thing. I do not think it should be forced upon them.

Mr. Francis Stallan Allan, called in; and Examined.

1389. *Chairman.*] You are the Surveyor of Taxes for Kircudbright?—Yes.

1390. And you have been appointed by the Commissioners of Supply as assessor, under the allowance in the late Act?—Yes.

1391. How many years have you held that office?—I have been surveyor of taxes for that district for nine years, and assessor under the Lands Valuation Act for seven years.

1392. Would you explain to us the course you follow in making the valuation under the Valuation Act?—The first thing I do is to address a printed schedule to each proprietor in the county, whose rental amounts to 10 *l.* or upwards, requiring him to make a return of the rents, the names of the tenants, and the other particulars required by the Act. When these schedules are returned I examine them and enter the alterations, from the previous year, on a copy of the former valuation roll made for that purpose, and if anything in the returns requires explanation, or if there be any omissions, I apply for further information upon these points. Immediately after the returns are made and examined, I proceed upon a personal survey of the district. I go through every parish in the county, and ascertain by personal inspection and inquiry the particulars required in every case where no return has been made, or where, owing to defective returns or from any other cause, I am not thoroughly prepared to make the requisite entry in the valuation roll. In all cases where it is necessary, I examine the property, and put a value upon it, which I am enabled to do from my local knowledge, and from the experience I have acquired in dealing with such subjects, both as surveyor of taxes and as assessor under the Act.

1393. Where land is let, you generally take the rent?—I generally take the rent as fixed by the lease or other agreement, except in particular cases.

Mr. *F. S. Allan.*

1394. You have had one or two peculiar cases discussed on appeal, I think, before the Judges in Exchequer?—Yes; several very nice and somewhat difficult questions have come before the Commissioners of Supply, and 10 of those cases were appealed to the Court of Session.

1395. Will you mention one or two of these with reference to the consideration which has been held to be over and above the rent, and liable to be included in the rent; what ought to be included in the rent?—In three of the cases I have referred to, it was decided that interest payable by tenants on money expended by the proprietors on drainage and other permanent improvements, should be added to the rent fixed by the lease, and entered as rent in the valuation roll.

1396. There was one where improvements were made under an understanding?—There was one case in which it was provided by the lease that certain improvements should be made by the proprietor, and that the tenant should pay a certain per-centage of interest upon the outlay.

1397. That was held to be rent?—That interest was held to be rent; there was another case from the same estate; no mention was made of outlay for improvements in the lease, but by an agreement entered into subsequently, the landlord became bound to expend a certain sum upon improvements, and the tenant to pay a certain rate of interest upon the amount. The Commissioners of Supply thought, as this agreement was not in the lease, the interest payable under it could not be included in the rent to be entered in the roll; but Her Majesty's Judges decided that it should be added to the rent. There was another case in which the proprietor, according to a stipulation in the lease, expended 1,000 *l.* upon improvements, some

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some of which were not permanent, viz., liming the land and cutting sheep or surface drains, which were considered to be exhaustible within the term of the lease, and it was held that the interest upon the sum expended on these improvements, although payable under the lease, should not be added to the rent.

1398. And interest for permanent improvements was held to be added to the rent?—Yes; in all cases.

1399. Even where there was no written obligation?—Yes.

1400. Then with regard to land in the proprietor's own possession, by what course do you ascertain the value of that?—Having had little experience in valuing agricultural lands at the time I was first appointed assessor, I obtained the assistance of a practical agriculturist. We examined, field by field, every farm in the county, then in the natural possession of the proprietors, and re-estimated the sum which they might reasonably be expected to let for, one year with another, or upon a lease of 15 years.

1401. That is the usual term?—Yes, the majority of leases in the stewartry of Kirkcudbright are for 15 years.

1402. In regard to grass parks, will you state to us what course you followed?—Previously to my appointment grass lands had been valued in different ways, and in order that the principle upon which they should be valued might be authoritatively settled upon appeal to the Court of Session, I assessed them according to the rents paid for the season's grazing.

1403. On the roup roll?—On the gross rent, as appearing in the roup roll. The proprietors who were charged appealed, and the case went before the Court of Session, and, in order that the decision might be given as to the principle upon which the lands should be valued, and not upon the mere question of value, it was admitted on both sides that they would let for a certain sum on a lease of 15 years; and the Court, after hearing counsel, held that that sum should be entered in the valuation roll as the annual value of the lands. Since that time we have treated grasslands in exactly the same manner as all other agricultural lands, and have valued them at what a tenant would give for them, one year with another, for ordinary agricultural purposes.

1404. You do not consider the gross return received, but the estimated value?—The estimated return or rent which a farmer would give for the lands.

1405. Mr. *Blackburn.*] Is that more or less than the grass rent?—It is almost always less than the grass rent, but in a few cases the grass rents in some years did not amount to the estimated annual value of the farm.

1406. *Chairman.*] You rated the owner in this case at more than he actually got?—Yes, but I believe it could be shown that the grass rent, for some special reason, was not a fair criterion of the value when this happened.

1407. Was there any appeal against that?—No.

1408. Then, with regard to improvements made year by year by proprietors, do you revalue each year?—In the case of lands in the occupation of the proprietor, if the improvement has been of a trifling nature, and what an ordinary tenant might be supposed to make in the course of farming the land, I have not hitherto taken it into account; but if a proprietor has been expending money in improving land in his own possession to any great extent, I make an addition to the estimated rent or value. I have hitherto done this by a per-centage upon the outlay. The proper way under the Act, however, would be to revalue the farm; but, as tenants are charged only a per-centage upon the outlay for improvements made by their landlords, I thought it was but fair and reasonable to place the proprietors in the same position.

1409. What sort of rate do you allow?—Five per cent.

1410. Is that the general rate which tenants pay?—Proprietors, who improve with money borrowed from Government, frequently cause their tenants to pay the whole of the interest, 6½ per cent., but a number of gentlemen who have improved their lands with their own money only require 5 *l.* per cent., and take the minimum.

1411. Just now you fill up the valuation roll without any deduction; but, supposing you had to make the deductions allowed under the poor's rates, deductions for rates and taxes and repairs, would you find that that was a difficult thing to be done?—I should think it would be very difficult, not so much with regard to rates as with regard to repairs.

1412. That is to say, if you were obliged to discover the actual repairs of every separate tenement?—Yes; and I also think there would be considerable difficulty even if a per-centage upon different classes of property were allowed.

1413. You think there would be a difficulty in fixing the per-centage?—Yes.

1414. Sir *Graham Montgomery.*] There would be a difficulty, first of all, in classifying the property, and then a difficulty in fixing the per-centage?—Exactly; and I think the per-centage would, when fixed, give very little satisfaction, because there is so much variety of character even in the same class of property that it would be almost impossible to fix per-centages which would be thought fairer than the present system of taking the gross rent.

1415. *Chairman.*] Could you not fix one that would be nearer justice than the present system?—If we hold that rates are charged upon the rents as representing the income of the propietor, and regard the question as affecting the owner only, I think that, granting deductions by means of classification and per-centages, would approach nearer to justice than the present system. If any alteration is to be made it must, I think, be done in this way.

1416. The other, you think, would be impracticable; stating the actual amount?—I think so; there is such a variety in the character of houses and so many small proprietors that it would be very difficult, if not altogether impracticable to ascertain the outlay in each individual case. In towns and villages there would hardly be two houses of the same annual value where the outlay would not be different.

1417. The thing is done at present separatly in each parish?—In every case within my knowledge, where deductions are granted in assessing the poor rate, they are given by one uniform rate or per-centage upon land and another upon houses, no other distinction being made; and in the stewartry of Kirkcudbright, I understand there are not more than three parishes, out of 28, in which deductions, of any kind, are allowed, as a general rule.

1418. You have very little manufacturing property

perty at Kirkcudbright?—Very little. The annual value is about 3,000*l.*

1419. How do you manage with regard to this?—Most of the mills and subjects of that description in the district are let, and I take the actual rent paid for them. Those in the possession of the proprietors are valued by comparing them with similar subjects let at rack rent.

1420. The whole machine goes very smoothly now, does it not?—Yes, very smoothly; there has been very little contention of late years.

1421. Mr. *Smollett.*] Because there are no deductions?—That may be one of the reasons; if deductions were given there would be great room for discussion and differences of opinion, which often cause annoyance and dissatisfaction where there is no real grievance.

1422. Sir *Graham Montgomery.*] Perhaps it is because there are not many railway companies in your county?—We have three railway companies, but I have nothing to do with them as assessor; I hear of them making claims for deductions to the parochial boards, but I do not come in contact with them myself.

1423. Mr. *Mackie.*] Do you happen to know if these railways of which you speak get a fixed per-centage in each parish?—I do not know. I know that from the parish I live in myself (Troqueer) they get no deduction whatever, in consequence of the system of assessing one-half on the landlord, and one-half on the tenant, without deduction, having been introduced before the recent Poor Law Act under which deductions are given, was passed.

1424. In regard to grass parks, as I understand, you just take the agricultural value of the subject?—Exactly.

1425. And without any deduction for farming, or otherwise?—There is no deduction allowed for farming, or otherwise, as the lands are originally valued at what a tenant would give for them for ordinary agricultural purposes.

1426. So that upon the sum entered in the valuation roll, the proprietor who farms his own grass parks pays rates and taxes just as much as if he was receiving that sum from the tenant?—Exactly; and whether he makes that sum out of his grass lands or not.

1427. You do not inquire?—I make no inquiry as to his returns, or grazing rank, where the lands are let for the season's grazing only.

1428. *Chairman.*] You never look at the roup rate at all; you did so at first, but you do not now look at the roup rate?—No.

1429. Sir *Graham Montgomery.*] On what principle do you assess mansion houses, and properties in the county?—That is a point of considerable difficulty. There were no railways in the district when I was appointed to it, and house property of that description could not be let, except for a very small rent. I found a certain rent or value had been put upon the houses, and, generally speaking, I continued that valuation. Since the railways have been opened, however, I have made an increase in the valuation of many of the mansion houses, and hence endeavoured to bring the valuation somewhat nearer to that of houses let in the neighbouring towns and villages.

1430. Does the system you have adopted give satisfaction?—I have had very few complaints with to regard the valuation of mansion-houses.

1431. Mr. *Mackie.*] I think only 10 cases in all, in seven years, to the Court of Exchequer?—There has been only 10 appeals from any district to the Court of Exchequer regarding valuations of every description during the last seven years; and the decision of the Commissioners of Supply was held to be right in six of these cases. I may add, that during the same time 77 appellants only attended the Appeal Courts.

1432. *Chairman.*] Would you see any objection to the same appeal being given in the cases where the counties choose their own assessor, as is given in your case, where they have the Government assessor?—I would see no objection, if provision were made to prevent persons from taking cases of a frivolous or unnecessary description. I think a small payment should always have been demanded from an appellant who loses his case.

1433. If you lose your cases are you liable?—No.

1434. Then neither party is liable?—No; but Government is at the expense of making up the roll and pays all the outlay connected with these appeals. Under the Assessed Tax Acts, from which the regulation regarding appeals of this nature appears to have been transferred to the Valuation Act, if an appellant takes a case and is unsuccessful, he has to pay 40*s.* in name of expenses.

1435. And you would like something of that kind extended?—Yes, and I think it would be more necessary if the right to appeal were extended to counties and burghs where the assessor is not the Government officer, in which case both assessor and appellant might be made liable.

1436. Sir *John Ogilvy.*] In the cases you have referred to they were to establish a principle?—Yes, especially those with reference to grass lands and interest on sums expended for improvements. There was considerable diversity of opinion as to the mode of assessing in these cases, and it was thought advisable to get an authoritative decision.

1437. Mr. *Blackburn.*] In the case of any subject being let, if there is any outlay made upon it by the landlord the interest is put on, and it is rated higher than it was before?—In all cases.

1438. Supposing a tenant makes an outlay on it, and increases its value, can you raise the rent?—I have done so in some cases, but it was only where it was provided by the lease or by subsequent agreement that the tenant should lay out the money. A case of this description was appealed to the Court of Session: a proprietor let a farm on a lease of 19 years, at 140*l.* of rent, which was the full value of the farm at the time, and it was afterwards arranged that the proprietor should drain the lands, and that the tenant should expend a sum on building a dwelling house on the farm equal to the amount expended by the landlord on drainage. They had expended between them about 2,000*l.* when I valued the farm at 280*l.*, the rent at which it would let in its actual state, and which was double the rent fixed by the lease. The proprietor appealed, and the Commissioners of Supply gave a decision in his favour, and reduced the value to 140*l.*, on account of there being no annual payment made by the tenant in addition to the rent, but the decision was reversed by the Court of Session.

1439. Was it held payable upon both the outlay by the tenant and the outlay by the landlord?—

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It was held that the farm should be valued as it then existed, irrespective of the lease.

1440. Was there a bargain between the two that a certain sum should be laid out by the landlord?—Yes, or at least there was an understanding that the drainage of the land would cost a sum equal to the amount required for building the house.

1441. Supposing 1,000*l.* had been laid out by the tenant and not the landlord, would the tenant be rated higher?—No, the rent or valuation is never increased where the tenant takes the risk of laying out money without making any agreement with his landlord for repayment in some shape or other.

1442. *Chairman.*] In the case of tenants building farm-houses during the lease, have you made any general charge?—Not unless the tenant was bound to build by the lease or by a subsequent agreement with the landlord.

1443. Mr. *Blackburn.*] Do you think you could not under the terms of the Act?—I think we could not in terms of the Act; besides, it would be very difficult, if not altogether impracticable, to put a value upon improvements made by a farmer in the ordinary course of farming, and would cause every farm to be revalued in the course of a lease, which would create great dissatisfaction; but I think some provision should be made for the valuation of houses and other buildings, machinery, &c., put up by tenants whose leases are for less than 21 years. I also think when a tenant, under a lease of less than 21 years, sub-lets the subject at an increased rent, the additional or surplus rent should be entered in the roll, as it generally arises from improvements made by the tenant.

1444. Do you think that house property and land with no houses upon it should be rated in the same way upon the gross sum at which they are rented, or should they be classified, and some deduction given in one case and not in the other?—There is very little land let with no houses upon it; almost all farms have houses of some kind upon them.

1445. Take the case of a sheep farm; I think there are some in Kircudbright with very small buildings, at all events?—I think the expense or outlay upon one of these farms in a general way is not so much as upon houses.

1446. Do you think it is fair upon a house proprietor to take the duty upon his house in the same way as upon a sheep farm?—The repairs upon house property would amount to more than the repairs upon a sheep farm, but house property yields a larger return for the capital invested than land, and might reasonably be required to pay higher rates; besides, there are certain burdens upon land which are not chargeable upon houses, and very likely additional burdens upon the land would be equal to the additional repairs upon the houses. In the stewartry of Kirkcudbright, the landowners pay about 7 ½ per cent. on an average, while on house property the burdens, generally speaking, do not exceed 2 ½ per cent.

1447. What sort of burdens?—Public burdens, rates and taxes.

1448. What kind of taxes fall upon land that do not fall upon house property?—Stipend, schoolmaster's salary, land tax, church rates, and county rates are all charged upon the landowner.

1449. Is not the house property charged for the county rate, if the property is in the county?—Yes; I was wrong with regard to county rates. The landowner pays 7 ½ per cent. on an average for public burdens, including the stipend, and the house proprietor pays, including county rates, about 4 per cent.

1450. If you deducted the stipend, would they come nearly to about the same?—If the stipend and schoolmaster's salary were deducted, the public burdens would be nearly equal on both kinds of property.

1451. Major *Cumming Bruce.*] You stated just now that there was a difference in the burdens which might be applicable to a pasture farm as regards house property; is it not necessary for a pasture farm to have wintering of an arable kind as an essential part of that farm to maintain the stock in winter?—Sometimes that is necessary; but then the farmer calculates when he takes a farm of that kind that he has to take wintering for his sheep, and gives a smaller rent accordingly.

1452. Are they not generally of a mixed character, these pasture farms, partly arable land?—In many cases they are, but the larger number of sheep farms in my district have very little arable land connected with them.

1453. *Chairman.*] Are there any suggestions you would wish to make to us from your experience in the working of such changes and improvements as might be made under the system of the Valuation Act?—I think the present Act works exceedingly well; but, if it be assumed that it is desirable or necessary to give deductions, a good deal might be said upon the way in which these deductions should be given.

1454. If you have anything to say upon that we should be glad to hear you?—The burdens payable by the owner are different both in kind and amount from those paid by the tenant; but I think the rateable value should be held to be the nett value to the proprietors, after deducting the public burdens and repairs payable by him. I would not take the tenants' burdens into account, but would give deduction of the landlord's outlay alone, because the burdens payable by the tenant form merely part of the consideration he has agreed to pay for the use of the subject, and if the burdens were less he would pay a larger rent.

1455. So that when a tax is divided between the landlord and the tenant, if you would give deductions at all, you would only do it in laying on the landlord's half?—I would give the deductions in assessing both for the owner and tenants half of the tax, I think it would be a great disadvantage to have two rateable values; but, for the purpose of ascertaining the rateable value, I would take into account the landlord's outlay only. The rent paid does not, as in the case of the proprietor, show the tenants income, it only shows the amonnt at which, with the burdens, he values the subject, and if the tenant in this way got a larger deduction than he was entitled to, and had fewer rates to pay, he would give a larger rent, which would make up to the landlord for any extra payment he might have to make in consequence of the tenant getting these deductions. I have already said that I think it would be impracticable to give deduction of the actual outlay in each individual case, and that if deductions are to be given it must be by means of a classification and of per-centages upon the different classes of property; and I would suggest the following classification:—1. Railways and canals; 2. Agricultural or grazing lands, including the houses necessary for working and managing the

the same; 3. Dwelling houses, and other subjects not specially named; 4. Mills, manufactories, and the like; shops and warehouses unconnected with dwelling houses; and all subjects let at a rent not amounting to 4 *l.* per annum. With regard to railways, I think the outlay, necessary to maintain them in their existing state should, in some shape or other, be allowed, as in the grass land cases I have referred to, but as I am not fully acquainted with the mode of assessing them at present in operation, I am not in a position to offer any suggestions respecting them. In the other cases, I think power might be given to the assessor, subject always to the review of the Appeal Court, to fix a per-centage, to cover all ordinary rates and repairs, to be deducted in each parish; and, in the case of landed property (class 2), to grant a special deduction for all rates peculiar to it, such as stipend, schoolmaster's salary, land tax, and church rates. The rate per cent. upon each class, as above indicated, might be as one in the second class, two in the third class, and three in the fourth class, or 5, 10, and 15 per cent. respectively. If maintenance were allowed in valuing railways, no further abatement would be necessary in the first class. The repairs upon house property in the third class must be greater than those upon land, while the necessary outlay upon the subjects mentioned in the fourth class must be still larger; but, as I have already said, a larger return for the capital invested is yielded by each class in proportion to the outlay for repairs; and for this reason, I think, they may be regarded as fairly assessed upon the gross rent.

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1456. Sir *Graham Montgomery.*] I would ask you whether you think the option at present enjoyed by counties and boroughs, in having their own assessor, should be taken away from them, and that all counties and boroughs should be compelled to employ the Government assessor?—From my experience, as a Government assessor, I think the appointment of the Government officer would be an advantage. I have reason to believe the appointment has given every satisfaction in the stewartry of Kirkcudbright and in the burghs in every district.

1457. There would be uniformity also?—There would be greater uniformity also, more especially if all the assessors were placed under the supervision of a Government Board, or of an officer specially appointed.

Mr. James Allanson Picton, called in; and Examined.

1458. *Chairman.*] You are a Valuer of Land and Houses?—I am; residing in Liverpool.

1459. Have you had anything to do with the valuation of lands for the purposes of the imposition of rates?—I have, extensively, in many parts of England.

1460. In what capacity?—As assessor, sometimes on behalf of appellants against rates, and more frequently on the behalf of parishes imposing the rates.

1461. Will you explain to us the system in England, which is different from ours in Scotland, of levying at the rateable value?—With regard to ordinary property, lands, and houses, we follow, as nearly as we can, the phraseology of the Assessment Act, of the 6 & 7 Will. 4, c. 96, "deducting the probable average annual cost of the repairs, insurance, and other expenses, if any, necessary to maintain them in a state to command the rent."

1462. Are those the words?—Pretty nearly, so far as my memory serves. In regard to lands proper, where there are no farm buildings, we take off about 2½ per cent. In regard to lands and houses jointly, the deduction would be somewhere about 5 per cent. In regard to house property, the deductions usually, for convenience, are made uniform in parishes, though not at the same rate in each parish. Some parishes deduct a uniform amount of 7½ per cent.; some 10 per cent., and some go as high as one-sixth, or 16⅔ per cent.; 10 per cent. is a very common deduction, taking the class of house property in general, though it is not an exact one, nor altogether fair; it is done as a matter of convenience, in order to avoid disputes as to the different classes of property. In reference to cottages, the deduction of 15 per cent. would be quite little enough.

1463. Then these are deductions, not including rates or taxes?—The words of the Act are, "free of rates and taxes;" that is, free of tenants' rates and taxes. Where the landlord pays the rates, the rates are deducted, in order to get at the annual rent.

1464. Those per-centages that you mentioned have nothing to do with rates?—Nothing to do with rates. With reference to public works, such as waterworks, gasworks, docks, and railways we have no uniform rate of per-centage, the principle being to deduct what really is expended in the maintenance of the property up to its rateable value, because in these cases we have always accessible accounts, which we can refer to for the purpose.

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1465. You do not require to make an estimate?—No, we do not, the object being to ascertain what a solvent tenant could afford to pay for the occupation of the premises.

1466. How have these rates been arrived at?—The railway rates?

1467. No, the rates for the different classes of property you have now mentioned; the rates upon house property are 10 per cent.?—Why, it is from experience from year to year, and it has been held that if 10 per cent. deduction be the rate in one parish and 5 per cent. in another, that inasmuch as all are served alike, no one suffers. I do not quite admit the justice of that; but that is the reason alleged for it.

1468. Are those rates that you have mentioned pretty uniform over all parishes?—So far as my observation goes, they are.

1469. And have they been arrived at independently by different parishes?—Each parish judges for itself.

1470. And from their concurring so nearly, you infer that they must be pretty nearly right?—I would not say they concur nearly, because there is a great difference between one-sixth and 7½ per cent.; the difference from 7½ to 16.

1471. But, I mean in different parishes and the same class of property, the per centage is pretty nearly the same, is it not?—With that difference. In one parish 7½ will be the deduction from all classes of house property, whether cottages or mansions; in another parish the uniform deduction will be more than 7 or 7½ per cent.

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over the whole house property, so that there is a difference.

1472. But not very large?—Not more than to the extent I have stated.

1473. In any parishes that you are acquainted with, do they divide the house property into separate classes and take a different per-centage of deduction?—No, they do not as a principle; but, in cases of appeal, I have known that pleaded, and I believe successfully, as being a ground of appeal; because, under the words of the Statute, such an allowance has to be made as will maintain the property to its rateable value, *communibus annis.*

1474. What parties impose the assessment?—The overseers.

1475. They make the valuation?—They make it, or the assessor whom they appoint.

1476. To whom is the appeal?—The appeal is to the justices in quarter sessions.

1477. Sir *John Ogilvy.*] Is that final?—That is final, unless there be some disputed point of law which occasionally goes to the superior courts.

1478. *Chairman.*] Is there any very great difficulty experienced in coming to these results?—No, I think not; I have not found any, and I have had a very large practice in that way in various parts of England.

1479. You do not see any practical difficulty in coming to a fair valuation?—The only difficulty I can perceive is what I have just stated, that different classes of house property require a different amount of outlay to keep them up to their rateable value, and that is to be got over by as near an approximation as can be applied, taking all classes of property together, for there would be difficulty in treating each class separately. In regard to house property, it is as I say, one uniform rate is adopted; but not in regard to land, because there it differs, owing to the different circumstances, whether it be land *per se*, or land with houses.

1480. What difference is generally made between the land *per se* and the land with houses?—About 2½ per cent. with the land alone, and about 5 per cent. with land with buildings attached.

1481. What does the land *per se* generally consist of?—Farming land, simply.

1482. How is it occupied or farmed; what is the use made of it?—Whether it is land in tillage or grass is a matter of little consequence.

1483. How is it disposed of; if there are no farm buildings, how is it generally let?—A farmer may have property with a farmhouse upon it, and he may rent another piece of land which has no house upon it, but that is not at all an uncommon case, working it from his own farmsteading.

1484. And from your knowledge of the outlay of properties, you are satisfied that, on the whole, these are fair deductions for that class of property?—I have not stated anything as to the deductions upon railways, because that is a special case which requires a special mode of ascertainment. The difficulty in regard to that class of property arises from the fact that the income is partly a trade profit and partly rent derived from the property.

1485. In Scotland they get over that difficulty by having a Government assessor to fix the rental of the subject?—That is true.

1486. Mr. *Blackburn.*] You were for some years surveyor for the parish of Liverpool, I think?—I was.

1487. And you had a considerable quantity of assessments?—About 1,000,000 *l.* per annum.

1488. And you found no difficulty in arriving at the nett value, making a proper, fair deduction so as to arrive at the net value?—No; we did it in house property by making a uniform deduction throughout. Ten per cent. is the Liverpool scale.

1489. *Chairman.*] Did you say you made a different rate for cottages?—No; I say that really it should be so, but in practice it is not done, in order that there may be one uniform rate; it is found more convenient. If the landlord pays the rents of the cottages, of course that is deducted before taking off the 10 per cent.

1490. Mr. *Blackburn.*] Do you not think houses ought to be classified; the better class houses and those requiring less deduction?—It would be a more correct principle, but in practice it is found attended with inconvenience, because there is a constant disposition to wrangle as to which class a house should belong to.

1491. Between a dwelling house and a cottage there surely must be some line?—Certainly; I think it would be a right principle, undoubtedly; but I am not aware that the principle is carried out practically in any parish with which I am acquainted.

1492. Have you a greater allowance for mills and manufactories than for dwelling houses?—Exclusive of machinery, we have not; we take the same per centage, 10 per cent. The machinery is rated by itself, according to its circumstances.

1493. Practically, in England, all these rates are upon the nett value, and not upon the gross?—Upon the nett value; upon what goes into the landlord's pocket.

1494. What remains to him to spend as he likes, after keeping the place in the same state of repair as it was previously?—Precisely.

1495. Sir *Graham Montgomery.*] As I understand you, there is not much uniformity in regard to the amount of deductions allowed in the different parishes with which you have been connected?—Not in the different parishes; in each parish there is, but not in one parish as compared with another.

1496. The per-centage of deduction is different in different parishes?—It is.

1497. So that a gentleman owning property in two different parishes, might have one per-centage of deduction in one, and another per-centage of deduction in another?—Yes; that is generally considered to be thus accounted for; if the assessment is higher, the rate is less, and he gets compensated *pro tanto* in that way.

1498. Mr. *Blackburn.*] Under the Act of 25 & 26 Vict., 1862, there is a power in the Union to appeal if they think the deductions are too great in any particular parish?—That was done because some parishes made large deductions in order to avoid their proper contribution to the union; that was a provision made to counteract that. There is a power of appeal, so that if any parish makes too great a deduction, the other parties interested may get it corrected. That would be in a case where the different parishes in the union contributed to a common fund.

1499. Sir *Graham Montgomery.*] That is so, as to the established expenses of the union in each parish?—Yes.

1500. Mr. *Mackie.*] You have no one absolute rule

rule of per centages throughout England?—No; not more than that the deduction should be what is necessary to keep up the property in its proper state of repair.

1501. *Chairman.*] Is there anything else you would wish to add?—I would merely add one thing. I have heard something said about the maintenance of way upon railways. In reference to that point, in England, we always deduct the maintenance of way and the reproductive fund for keeping the permanent way in order before we come to the nett value. That is uniformly done.

1502. And sufficient to replace it after so many years?—That is what we call the reproductive fund. The maintenance of way is what is absolutely laid out. The reproductive fund is the fund sunk for the purpose of reproducing the way when the rails are worn out.

1503. How many years is that calculated on?—That depends upon the amount of wear and tear. Some would require to be renewed twice as often as others.

1504. Sir *James Fergusson.*] You would deduct the actual sum, and not the per-centage in England?—Yes.

1505. Sir *Graham Montgomery.*] As shown by the railway accounts?—As shown by the railway accounts.

Jovis, 27° die Aprilis, 1865.

MEMBERS PRESENT:

Mr. Baxter.	Mr. E. P. Bouverie.
Mr. Dunlop.	Mr. Mackie.
Sir G. Montgomery.	Sir John Ogilvy.

ALEXANDER MURRAY DUNLOP, Esq., in the Chair.

Mr. David Carnegie Alexander, called in; and Examined.

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1506. *Chairman.*] You are a Writer in Selkirk, acting for the South of Scotland Chamber of Commerce?—I am.

1507. And you have been instructed by them to attend here, to give evidence before this Committee?—Yes.

1508. I believe you also act for various millowners connected with that district?—Yes.

1509. What may be the rental of the mills of those owners for whom you are concerned?—The annual rental of the millowners for whom I act at present, is 12,000 *l.*

1510. And you have had considerable experience in the working of the valuation assessment under the Poor Law Act?—I have been engaged professionally in various instances, in different parishes in our district.

1511. Will you explain to the Committee the system on which the deductions under the 37th section of the Poor Law Act are settled?—The Committee are aware that under the 37th section of the Poor Law Act, the annual rent is to be taken under certain deductions for repairs, insurance, &c., and also for public rates and taxes, and the poor rate is to be levied on the balance; and in six parishes in my district where I have acted, they have now established a principle of per-centages, instead of each proprietor claiming the actual expenses that he has incurred. The various parochial boards have fixed per-centages and deductions, and I lay before the Committee a return from the parishes of Selkirk, Wilton, Hawick, Melrose, Innerleithen, and Galashiels. The average per-centages allowed in those six parishes is 12½ per cent. from lands, that is lands with houses and farm buildings upon them; 22 *l.* 18 *s.* 4 *d.* for dwelling houses, and 27 *l.* 12 *s.* 9 *d.* for mills; that is the average.

1512. Is there much difference in the particular parishes?—There is a considerable difference; in the parish of Selkirk, there is only 5 per cent. allowed on land, 15 per cent. from houses, and 20 per cent. from mills; that is the lowest. The highest rates are in the parish of Innerleithen, where they are 17½ per cent. from lands, 22½ per cent. from houses, and 33 *l.* 6 *s.* 8 *d.* from mills.

1513. Although the actual sums differ, do the proportions correspond?—Yes, the proportions correspond.

1514. The actual amounts differ, but the proprotion is substantially the same?—Yes, because 5 per cent. is only allowed in Selkirk from lands, and 20 per cent. is only allowed from mills. In the other case it is 17½ per cent. from lands, and 33 per cent. from mills.

1515. Have those rates been generally adopted after consideration, and after some inquiry and evidence being taken?—Yes; and there has even recently been some discussion at some of the boards about it, and it was very fully considered. It has been arrived at, after careful deliberation in the various boards. The impression generally is, that a fair deduction is 12½ per cent. from lands, 22½ per cent. from houses, and about 30 per cent. from mills; that would be a fair average.

1516. That is the actual average, according to your returns?—That is very nearly the actual average. In the parish of Innerleithen, where the matter was very fully gone into, there was a recommendation at one time by a committee of the parochial board, that 27 per cent. should be allowed from lands, 22 per cent. from houses, and 43⅓ from mills. The committee's recommendation was opposed in the parochial board, and there were very full states lodged by all the different classes of proprietors in that parish. The landowners' states show, one 17½, and another something more; but they included, in their claims, new buildings erected at the commencement of the lease, and averaged over a period of 19 years, and it was considered that that was not a just deduction under the Poor Law Act.

1517. Have deductions for renewal been allowed for in the case of buildings?—Certainly not; they were struck out and a compromise was made, by which the rates fixed were 17½ per cent. for lands, 22½ per cent. from houses, and 33⅓ per cent. from mills.

1518. In buildings, do you allow anything in the nature of a sinking fund for restoring the buildings when they become out of repair?—I do not think there is, generally, anything allowed for that; if you were to do that in one case, you would require to do it in the case of mills as well; you would have to establish a sinking fund for each, for deterioration. I am not aware of any case where there is any deduction allowed for deterioration, but actual cost of maintenance is taken into consideration.

1519. How does that plan answer?—It answers very well now; parties are generally satisfied.

1520. It goes on smoothly?—It goes on very amicably. I may mention two instances that occurred in my own experience, where the principle was voluntarily adopted. It was in the erection of two churches, one in the parish of Selkirk and another in the parish of Wilton.

1521. That is not under the parochial board?—No: but I mention this to show how amicably the

the matter is now dealt with. There is no law which authorises deductions in assessing for new churches or parochial buildings, but the ratepayers voluntarily agreed that the deductions of the parish of Wilton should be allowed in assessing for these new churches, so that 12½ per cent. from lands, 25 per cent. from dwelling-houses, and 30 per cent. from mills was allowed, and the assessment was laid on the balance.

1522. The heritors have a large discretion as to the mode in which they will lay on the assessment?—In these cases, it was a perfectly voluntary matter.

1523. You mentioned that states were given into this parish; have you copies of those states?—I have lodged the abstract of the deductions that have been adopted in the different parishes; I can lodge also before the Committee the states that were lodged in the parish of Innerleithen, but I have a statement here with reference to mill property. This is a table made upon information supplied to me by the different millowners for whom I act. It shows the average expense for actual maintenance and for public burdens on 11 mills; during three years, 1862–63, 1863–64, 1864–65, and the whole is abstracted, and it shows that the cost that those parties, on an average, have paid for maintenance and for public burdens amount to 47 *l.* 1 *s.* 8 *d.* on the rental, as stated in the valuation roll.

1524. There is nothing for renewal?—There is only the actual outlay for maintenance.

1525. Including insurance?—Including insurance, which I may mention is particularly heavy on mill property. It averages, on the heritages of mill property, from 10 *s.* to 22 *s.* per cent.

1526. What are your mills chiefly?—They are all woollen mills in our district. The insurance is a particularly heavy burden on them. This table shows the average per cent. of insurance is 5 *l.* 19 *s.* 10 *d.* on the rental. The insurance on farm buildings is very small as compared with that; it is but a fractional sum.

1527. Drainage rent charge is not deducted on an estate?—No, not at all; no deductions are ever allowed for anything that is of the character of new buildings or improvement of lands; that is only the creation of heritage; it would be the same as a manufacturer who is building a mill; he could not claim anything for his new buildings.

1528. In regard to lands, are there some cases in your districts where teinds from land are paid to a lay titular?—There are some cases where they are paid to the Deans of the Chapel Royal, who come in the place of the Crown, and of course, where that is the case, it is a heavy burden on the proprietors.

1529. Are these not deducted?—No.

1530. Nor treated as a separate property?—They are not treated as a separate property under the valuation roll.

1531. The Deans are not inserted as the recipients of rent or profits?—They are not; but I have a strong opinion, where a landlord has a fifth of his rent absorbed for teinds, that he should be allowed a deduction, and that the teinds should be entered on the valuation roll.

1532. Are there any instances where the amount is at all approaching the proportion of one-fifth?—I know instances, myself, where one-fifth of the rental is paid to the Deans of the Chapel Royal. On one of the properties of Mr. Johnson of Aloa, where I acted at one time with a former partner. One-fifth of the rental is annually paid to the Deans under the deduction of "ministers' stipend."

1533. The teinds in these cases had not been valued under the old Teind Commissions, or else the valuation had been found invalid, and a recent valuation made at the legal amount of one-fifth of the rental?—It is paid annually.

1534. Feu duties are not, either, in these deductions?—I may mention that, in this table, I have deducted feu duties. The average of the feu duties in this table amounts to 8 *l.* 6 *s.* 10 *d.* per cent. of the valuation, and I shall state why I put in the feu duties here; it is not a deduction that is recognised in the parochial board, I ought to say.

1535. It is not allowed?—It is a deduction that is not allowed.

1536. You merely stated it as a deduction which is paid?—I have stated it here as a deduction on the valuation, because it of course is a burden on the rental, and I hold the opinion that feu duties should be entered on the valuation roll.

Sir *John Ogilvy.*] I thought they were now.

1537. The *Chairman.*] They are mentioned but not treated as a subject to be taxed?—You will not find feu duties mentioned in the interpretation clause of lands and heritages at present, and they are not in point of fact entered on the valuation roll, but they are a profit derived from the land and a very important heritable property. I can instance where perhaps 20 acres of land have been feued. I know one instance where it was feued at a feu duty of 8 *l.* an acre. Previous to the feuing the proprietor of the property was assessed for public burdens on it when it was occupied as an arable farm. Now, that he gets a feu duty of 8 *l.* an acre instead of a rent of 2 *l.* 10 *s.*, he escapes all public burdens. The feuer pays all public burdens and the landlord gets an increased rental and pays nothing.

1538. Are you aware that in the original valuation statute of 1643 feu duties were directed to be deducted from the vassal and set down for taxation on the part of the superior?—I was not aware of that, but in the present Valuation Act, where properties are let on long leases, any lease in fact exceeding 21 years, the possessor of the property, or tenant under that long lease, is ordered by the Valuation Act to be entered in the valuation roll as a proprietor, but there is a provision in section 6 of the present Valuation Act that he shall be entitled to deduct the burdens from his own landlord corresponding to the rent paid. If it is a fair deduction on a long lease, it should be equally a fair deduction in dealing with the question of feu duties in perpetuity.

1539. Then the proprietor also letting his land for building purposes on a long lease is rated on the tack duty which is analogous to the feu duty?—Yes, you will find it in clause 6 of the 17th & 18th Vict. c. 91. It says, "The lessee under such a lease shall be deemed and taken to be also the proprietor of such lands and heritages in the sense of this Act, but shall be entitled to relief from the actual proprietor thereof, and to deduction from the rent payable by him to such actual proprietor of such proportion of all assessments laid on upon the valuations of such lands and heritages made under this Act and payable by such lessee as proprietor in the sense of this Act as shall correspond to the rent payable by such lessee

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to such actual proprietor as compared with the amount of such valuation," and I say the case of feu duties and the case of a long lease are so analogous that I do not understand why feu duties should not be put in the valuation roll.

1540. In valuing mills the steam engines are called the fixed machinery, and they are included in the valuation on which the rates are levied?—Yes, the power of the mill, whether water power or a fixed engine, is valued as heritage. The Valuation Act itself provides for fixed engines being rated as heritage, and the water power is valued in the same way, and of course a proprietor of a mill pays his burdens on that power.

1541. Not only the water power, but the machinery by which that water power is communicated?—What we call the great gearing in Scotland; that is all heritage, and assessments are levied upon it. There is a very strong opinion in our district that engines ought not to be valued. I have heard it maintained by manufacturers with some show of good reason, that a fixed engine should be exactly in the same position as a locomotive; it is that which produces the power, and whether it is fixed or unfixed, it is so liable to deterioration and decay, that it ought not to be assessed for public burdens.

1542. On what principle is the rate or the rent on fixed machinery estimated?—I am not so very familiar with the principle that assessors take. Indeed, I believe there are a very great variety of principles, but I understand they fix a certain rent for horse power, and that is entered. They calculate the machinery driven, and so estimate the horse power, and they allow perhaps from 3*l.* to 4*l.* per horse power for a steam engine, and from 6*l.* to 8*l.* per horse power for water power. That is rated as the rent.

1543. Would you consider it desirable that some uniform system should be established for mills, similar to that which is established for railways?—Yes; I think there ought to be an uniform system, and perhaps there should be a separate assessor for mill property from the ordinary assessor. I, myself, have lately been appointed the land valuation assessor for the borough of Selkirk. I have not yet given the subject close attention, but I should feel rather uncertain about the principles of valuing mills, although I might have no difficulty in valuing houses and lands.

1544. You think it would be better done by a separate assessor?—I think it would be better done by a man of experience, who should deal with the whole matter. I think, whether the valuation of mill property is in the hands of either a local assessor or a general assessor, there ought, undoubtedly, to be a right of appeal given to the millowners from the decision of the Commissioners of Supply upon the subject.

1545. Would you confine that right of appeal to the case of mills?—No; I would give a general right of appeal.

1546. Would you give all parties a right of appeal, whether the Crown's surveyor was taken as assessor, or whether the county appointed their own?—I would. The railways have a right of appeal. Where the Inland Revenue officer acts as assessor under the Amendment Act of the 20th & 21st Vict., c. 58, he can appeal from the decision of the Commissioners of Supply. I do not see why the party who is to be assessed and to bear the burden should not also have the right of appeal. There is a very simple mode of appeal provided for by the 20th & 21st Vict. The Government officer has a right to demand a case from the Commissioners of Supply or the magistrates. The statute provides that he shall "transmit such case to the Commissioners of Inland Revenue, to the end that the same may be submitted to the Senior Lord Ordinary, and the Lord Ordinary officiating in Exchequer causes in the Court of Session, for their opinion thereon."

1547. The party assessed is entitled to demand a case also?—Only those that have the power under the 17th & 18th Vict. to appeal. That applies to railways only.

1548. It applies to every case where the surveyor is taken as the assessor?—Yes.

1549. All parties are, in such case, entitled to an appeal?—I do not so read the provision in the Act. I may have made a mistake.

1550. Is there any other amendment you would wish to propose on the present system?—With reference to landowners, there is an amendment that I think might with great propriety be introduced into a new valuation Act. Where a landowner has lands in his own possession, and is improving them, he is liable to have his lands revalued every year, or at short intervals, by the assessor. I think that is a hardship, because there is a certain amount of expenditure that is incurred, and that he may be called to do in the capacity of a tenant. When lands are let to a tenant, and the tenant takes improvements into his own hands, there is no change on his valuation during the whole period of that lease, but the landlord the moment he improves has his valuation increased at once.

1551. Does the assessor take annually into view the improvements which a man makes as an occupier, and not as a landlord?—You can hardly dispossess yourself of the feeling when you go to look at the improved state of the land, to take it into account.

1552. What term of years do you think would secure fairness to the owner for the necessary increase of burdens?—Perhaps 10 years; 10 years might be a fair average where it remains in a continued possession.

1553. Supposing there is a great amount of drainage going on, would you not let the assessor annually increase the value on that?—In the case of drainage, it might be different perhaps, because, in most cases where there is great drainage being carried on by tenants, they are paying Government interest, and that is added at present to the valuation roll. Wherever the tenant pays Government interest in addition to his rent, the interest that he pays is added in the valuation roll, so that if the landlord was either doing it with Government money, or out of his own pocket, the drainage is a creation of fresh heritage; but it is the element of what I consider the occupier's improvement that is apt to enter into a valuation.

1554. The gradual improvement of the soil should only be allowed to be taken at intervals?—I think so. There is another thing that has occurred to parties for whom I act, and to myself, with reference to the Valuation Act. At present, game is only entered in the valuation roll when the game happens to be let. There is a very strong feeling that game ought to be entered in the valuation roll whether let or unlet. I think it must be a very hard case in districts where large deer forests, for example, are in the hands of a proprietor

proprietor himself, and because he happens to have these deer forests in his own possession, therefore they are not entered in the valuation rolls. If he lets them and gets a large rent, they enter the valuation roll, and bear the burdens; I think it would be equitable that game should be valued as an heritable property. You are aware that the courts of law have held that a widow is entitled to her terce out of rent of game, and undoubtedly when the courts of law have gone that length, I think game should be entered as a heritable subject.

1555. Mr. *Mackie.*] Then you would make game property?—I think so; I may mention, that the question was discussed at a public meeting by the farmers in my district, and there was a very strong opinion in the Farmers' Club of Selkirkshire that it ought to be entered in the valuation roll.

1556. You would make game private property just as much as you make a turkey private property?—If a place were let for breeding turkeys, and nothing but breeding turkeys, then it would be right enough to do that, and game is now recognised as of so much value, in Scotland particularly, and whole districts of country may be so completely set apart for the preservation of game, that great injustice must necessarily arise if the rich man is to be favoured by having it excluded from the valuation roll, while the poor man, who is obliged to let his game, is assessed; by doing so you are assessing the poor man to save the pocket of the rich.

1557. Then you think the proprietor who keeps game in his own hands makes a good deal of income out of it?—I have known instances where that has been done, though I should say it is not the general rule; but if the proprietor derives pleasure from it, and his friends derive pleasure from it, and he chooses to take that way of managing his game, I think he should pay his share of public burdens, just the same as another man does who is obliged to let it.

1558. Sir *John Ogilvy.*] It would increase the value of the land?—Certainly; I may mention, I act as agent for various landed proprietors in my own district, and I am able to lay before the Committee some tables of the burdens that are borne by landed proprietors in the counties of Selkirk and Roxburgh, and I lay before the Committee, first, a table of the burdens borne upon an estate of which Mr. Brown, who is to be a witness, is part proprietor. It is a property in the county of Selkirk, of which the annual rent is 185 *l.*, and this table shows all the burdens that have been borne by it for the same years, 1862–63, 1863–64, and 1864–65. The per-centage paid is 8 *l.* 14 *s.* 10 *d.* In that case the buildings and fences are kept up by the tenant, which is very usual in our district of the country. The tenant also pays one-half the road money and one-half the poor's rates.

1559. *Chairman.*] Is the tenant's share included?—The tenant's share is not included here, but this is the actual rent the tenant pays, 185 *l.*, and he pays these burdens in addition; and it is, of course, to be assumed, when he made this offer for the farm, that he took into consideration the burdens he would have to pay, and that if he had been relieved of these burdens he would necessarily have given a larger rent for the farm.

1560. Have you another table?—I have another table. This is a table of a smaller property in the county of Roxburgh, the annual rent of which is 110 *l.* 15 *s.*, and the same burdens amount to 7 *l.* 12 *s.* 2 *d.* per cent. There is nothing there either for maintenance of buildings or fences, because they are paid by the tenant, and it is the same in regard to road money and poor's rates. I have also a return for two properties in Roxburghshire, Whitmuir and Greenhead. The annual rental of Whitmuir is 545 *l.* The burdens for the same number of years on that property have averaged 10 *l.* 6 *s.* 6 *d.* per cent. In that case there was the new parish church erected, and I have put in the whole assessment that was paid for the parish church, amounting to 61 *l.* 7 *s.* 9 *d.*; but of course the Committee can easily understand that this is not a thing that can periodically occur.

1561. Sir *John Ogilvy.*] That is an accidental circumstance?—Yes, an accidental circumstance. For another farm in the same county, Greenhead, the annual rent of which is 430 *l.*, the burdens have amounted to 21 *l.* 19 *s.* 7 *d.* per cent.; but just from the two accidental circumstances of the new church applying also to that property, and because last year we entered upon a new lease, and there was an expenditure of about 100 *l.* in reparing the steading. I have put in the whole expense, and not averaged it over the lease, which brings up the actual cost. I have put a note to that effect upon the return. I produce them just as they are, in order to deal with the matter quite according to the accounts under my charge; of course there are other cases where, perhaps, the burdens may be heavier, exceptional cases. I know property under my own charge where there is a very exceptional burden, that of maintaining water embankments. The expenses there are very heavy.

1562. *Chairman.*] Maintaining them from accidental breakage?—From the damage occasioned by large floods. It has occurred to me that if per-centages were either fixed under the Valuation Act, or if per-centages could be fixed by the Lands Valuation Assessor, in the same way as parochial per-centages have now come to be fixed, that there should be given a power to deal with exceptional cases; that the assessor should have the power of dealing with exceptional cases, and not be tied down by per-centages. One of those cases might be teinds; if teinds were entered in the valuation roll, then the assessor should have power to give a deduction; and there would also be exceptional cases with reference to mills, as well as with landed proprietors. There have been exceptional cases in mills within these last two years in Selkirk. The whole weir was recently run away by a flood, and it cost the millowners 1,000 *l.* to repair that weir, and the mills were off work for about three weeks. Now, there was a loss to those proprietors of very nearly the whole rent of that year, and also a loss of business; so that exceptional cases arise in all classess of property, and they might be dealt with perhaps, advantageously by some provision.

1563. You treat the parish church as an exceptional case in regard to land?—Yes, but you could hardly give the whole payment for a parish church under a deduction in one year; you would have to spread it over a period.

1564. Is there anything further you would wish to state to the Committee?—I would just like to state that what my constituents advocate is, that the valuation roll should establish a principle something like that of the Poor Law Act; that our assessment should be levied as nearly as possible

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possible upon the nett rental, rather than upon the gross rental.

1565. That is the leading view they have?—Yes, and it was strongly supported with reference to your Bill of 1864. The Chamber met and approved of the principle of the Bill, and resolved to petition in favour of it; and when it was withdrawn, and it became known that it was to be remitted to a Select Committee, it was resolved to produce evidence on the subject.

1566. Mr. *Baxter.*] Was that done unanimously?—Yes.

1567. There was no difference of opinion so far as you were aware?—Not that I am aware of.

1568. *Chairman.*] Do you find that there is much heartburning or complaining between different house proprietors, thinking that the average strikes one more favourably than another?—I do not find that there is in our district, but rather there is a very considerable amount of unanimity. I have acted in several of the parishes I have mentioned in settling this question, and most people are satisfied with the averages. The only case where a discussion was carried on with any keenness was in the parish of Innerleithen.

1569. Sir *Graham Montgomery.*] You think the property should be divided into so many classes; you would fix down in the Statute the classes into which the property is to be divided, and you would fix down in the Statute the per-centage to be taken from each class of property, in order to get at its rateable value?—I do not know that I would fix by the Statute a per-centage that might be given; I would be disposed, as in the Poor Law Act, to leave that general; that they should be entitled to deduction; and I am quite satisfied that the deductions would gradually settle down to a per-centage, which would give satisfaction.

1570. You would allow them to settle the classes and the per-centages themselves?—Yes, I believe ultimately that would be found to work well.

1571. Mr. *Mackie.*] Are the parishes of which you have spoken within the borough of Selkirk?—No.

1572. Are they land parishes?—Selkirk is partly burghal, and partly land; Wilton the same, Hawick the same.

1573. What is the proportion of land and borough in the parishes of which you have spoken?—I could not give that with any accuracy; the relative rentals of the three classes of property.

1574. Are the purely landed proprietors satisfied with these per-centages?—I think that in the parish of Selkirk the landed proprietors conceive they get too small a deduction in receiving only 5 *l.* per cent.

1575. As compared with 20 per cent?—As compared with 15 and 20 per cent.; I think the landed proprietors in Selkirk parish conceive that they ought to get more. In the other parishes I believe they are perfectly satisfied. In the parish of Galashiels, where they receive 15 per cent. as against 30 per cent., I met one of the factors upon a considerable part of the land in that parish the other day, and he said he was fully satisfied; that they got more almost than it cost; I myself think 5 per cent. too small a deduction from the landed proprietors.

Mr. William Brown, called in; and Examined.

Mr. *W. Brown.*

1576. *Chairman.*] You are President of the South of Scotland Chamber of Commerce?—Yes.

1577. And you can speak to the views and the feelings of the members of the chamber?—Yes.

1578. Do you concur in the statement which has just been made by Mr. Alexander?—Yes; that the assessment should be levied upon the nett and not upon the gross rental.

1579. You are personally acquainted with the cost of maintaining mills; you are a mill proprietor, I presume?—I am.

1580. You have seen the return given in by Mr. Alexander; do you hold that to be a correct representation of the cost to which millowners are exposed?—Yes, as nearly as possible.

1581. You are also proprietor of a landed estate?—In Selkirkshire.

1582. What is the average cost of maintenance?—£. 8. 14 *s.* 10 *d.* per cent.

1583. Then what is the per-centage of the cost of your mill?—That is 35 *l.* 11 *s.* 6 *d.* The most part of the property is new, and the buildings are new, and the steam engine is new. There are very small deductions upon these. At present we are not within the police boundaries of Galashiels, and as soon as we are within the police boundaries of course the police assessment will be laid upon us, and we shall have 5 per cent. increase on our deductions; and as the mill of course gets older the proportion of deduction increases at the same time; I have no doubt it will be 5 per cent.

1584. You are rated without deduction on all the county rates?—On all the county rates.

1585. You are rated with a deduction for the poor's rates, but all the county rates are on the gross rent?—Yes.

1586. And that you consider a grievance?—Yes, we consider it very unfair.

1587. Do you feel the want of a uniform rule in the valuation of mill property?—Yes, very much; I can give you a statement. Some time ago in Selkirk, in the Ettrick Mills, with which I was connected, the firm made a return of the valuation upon the principle pursued in Roxburghshire for the valuation of mills. We had 10,000 square yards of flooring, and, taking it at 20 shillings the square yard, that amounted to 10,000 *l.* There were water wheels of 40-horse power, valued at 60 *l.* a horse, amounting to 2,400 *l.*, and making a total of 12,400 *l.* This sum at 6 per cent. gives 744 *l.* as the annual value of the heritage, but it was taxed by the Board at 947 *l.* 10 *s.*; more than 200 *l.* above our value, and the proprietors have been assessed at that amount ever since without being able to obtain relief.

1588. Then you would have some scheme corresponding with that by which railways are valued?—Yes.

1589. You would have a skilled person to value mills, with an appeal?—Yes, if some rule could be laid down in the Act for valuing property, perhaps it might be left in the hands of the local assessor.

1590. In calculating the value of mills in the

the hands of owners, is a per-centage taken?—I think that a very fair plan to value them, taking the floor space at so much.

1591. How is machinery estimated; would you have the same per-centage on the machinery, or a larger one?—The fixed gearing is valued with the water power. The water or steam power is valued at so much; it includes the fixed gearing.

1592. So much per horse power?—So much per horse power.

1593. Not a per-centage on the outlay, at all?—We fix the horse power at so much; 60*l.* per horse power, and take 6 per cent. as the value of horse power.

1594. That has no reference to the actual outlay in providing machinery; it is an assumed value for the horse power?—We consider that to be a fair thing. Of course it is only the fixed gearing that that applies to.

1595. All the moveable machinery is excluded. Has any inconvenience been practically felt from the want of a power of appeal?—Yes; I think there is inconvenience felt in some cases. Of course in this case I have mentioned at Selkirk where the assessment was so much enlarged, 200*l.* more than our own valuation of the property, we had no appeal, and that amount has been paid ever since. And then in regard to country houses, in Selkirkshire particularly, it is scarcely fair to make the Commissioners of Supply a court of appeal, because their own cases may be brought up; and the mansion-houses are valued at a very low rent. For instance, I have a paper here with the particulars of the valuation of mansion-houses in Selkirkshire, and I may state my own house in Galashiels, which is a comparatively small house, with three acres of land, is assessed at 60*l.* a year, while Borthwick Brae, with policy, is assessed at 45*l.*; Gala House, with policy, at 70*l.*; and Holilee, with policy, at 50*l.* I think these are very insignificant sums compared with what they ought to be valued at.

1596. These are larger houses?—Much larger. A different class of thing altogether.

1597. Are you aware of the principle on which the assessor acts?—I am not aware. I think there ought to be some principle to value these country houses as well as mills.

1598. What do you consider a fair principle?—I do not know.

1599. Sir *Graham Montgomery.*] Nor the principle on which they would let from one year to another unfurnished?—I think that is a very good principle, if they would stick to that; that is the present law.

1600. *Chairman.*] What it is supposed they would let for?—Yes.

1601. Sir *Graham Montgomery.*] Unfurnished?—I may mention one case, that of Sir John Murray, where his property is let at 450*l.*, including the policy and the shooting.

1602. Mr. *Mackie.*] It is a furnished house, I suppose?—The unfurnished house he only pays about 75*l.* a year for, and that leaves you about 375*l.* for the policy, and furniture, and shooting.

1603. *Chairman.*] What is your opinion about the steam-engine?—I have not heard two opinions about that; I do not think it should be rated with heritage.

1604. Will you state the grounds on which you think it should be excluded?—Well, steam-engines have no power in themselves, they are very different from water power in that respect; they can be as easily removed from the property as any other piece of machinery, and the deterioration that takes place is excessive.

1605. How many years do you calculate a steam-engine to last?—Well, I could not answer that question; but according to Molesworth's tables, the deterioration upon engines and boilers, is three per cent.; and repairs amount to 10 per cent. upon boilers, and six per cent. upon the engine.

1606. There is no allowance made in valuing steam-engines for deterioration?—No.

1607. Merely for repairs?—Merely for repairs, and in Mr. Alexander's schedule, we have nothing for deterioration at all on our mills; it is merely for repairs.

1608. Is there anything further you would like to state that I have not asked you about?—I think that the feu duties ought to be entered upon the valuation roll; I can give a case.

1609. If you entered them on the valuation roll as against the superior, you would have them deducted I suppose from the owner of the house; for instance, your house at Galashiels, you would have the feu duty you pay to the superior deducted from the valuation of the house as one of the burdens, would not you?—I do not see that very well.

1610. I am just asking whether that is your view; it is a burden that you pay to another man, and I suppose, if you wished the superior to be rated as the owner of that, you would not also desire to be rated on it yourself; that would be a double rating?—I am not rated upon the feu duty.

1611. You are rated upon the rent without deducting the feu duty; is not that the same thing?—Yes.

1612. All I wanted to get was, what your view was, so that you would like to have a deduction on your rating, as well as the rating of the superior on the property belonging to him?—I have feued 10 acres of land from the proprietor, and pay 10*l.* a year; he is released from paying taxes upon that quantity of ground, and yet his income is 50*l.* a year more.

1613. Although that is a deduction from the value of your property, you are not allowed to make that deduction in the value put upon your land?—No; the landlord is relieved about 100*l.* a year from taxation, while he derives much more from his property.

1614. Mr. *Mackie.*] Do you see any reason why the Government valuation should not be adopted in all the counties and boroughs throughout Scotland; if it were adopted, they would have the right of appeal to the Court of Exchequer; you complain, as I understand, that you have no appeal with regard to the valuation of your mills from the assessor; now you would have that right of appeal if the assessor was appointed by the Government?—Yes.

1615. Well, do you see any reason why, throughout the whole of Scotland, in all the counties and boroughs, the Government valuation should not be taken as the valuation for all purposes?—Well, I do not see any reason why it should not.

1616. Do you see any reason why it should?—I think so; in our case we want a court of appeal.

1617. *Chairman.*] In fact, you would prefer, I think, from what you said about the proprietors that the assessor should be appointed by the Government rather than by the Commissioners of Supply?—Yes, certainly.

Mr. JAMES WILSON, called in; and Examined.

Mr. *J. Wilson.*

27 April 1865.

1618. YOU are the Assessor under the Lands Valuation Act for the district of Cunninghame, in the county of Ayr?—Yes.

1619. Are you appointed by the Commissioners of Supply?—By the Commissioners of Supply.

1620. You do not hold office as surveyor under the Crown?—No; I am assessor under the Property and Income Tax Act, to which office I was appointed by the Commissioners of Supply.

1621. What is the population of the district?—The population of the district of Cunninghame is 95,648, and the gross valuation of the district is 433,379 *l.*

1622. What is the number of entries in your roll?—The number of entries in the valuation roll for the district of Cunninghame is about 11,000.

1623. Is Kilmarnock in your district?—I am assessor for the borough of Kilmarnock; and I was appointed by the town council.

1624. And you are collector and treasurer for the parochial board of Kilmarnock?—I am, and also treasurer to the Police Commissioners.

1625. What is the population of the burgh?—It is about 23,556.

1626. And the gross amount of valuation?—£. 47,116.

1627. And the number of entries in your valuation roll?—Four thousand six hundred.

1628. Will you state to us what system you follow in valuing heritages?—The Valuation Act passed in the year 1854, and we commenced proceedings under it in 1855. We issue schedules, specially prepared for the purpose, to all proprietors, and get returns of the rents payable by their tenants, and also of the annual value of the property possesessed by the owners; and we also make a survey of all the house property in the towns and villages. We check all these returns, and ascertain the number of acres, where requisite, and get the valuations examined up to a certain period, when we issue notices to the parties who have a right to complain, and unless the cases are adjusted betwixt themselves and me, as the assessor, they have the power to go to the Appeal Court.

1629. The Appeal Court is a Court of Commissioners of Supply?—Yes.

1630. But supposing either you or the parties rated are dissatisfied with the decision of the Commissioners of Supply, neither party can go any further?—No.

1631. What is your view about the advantages of an appeal to the judges of Exchequer?—I think our court, which is composed of gentlemen of the county, have a very full knowledge of the property. They are selected from the various districts of the county for that purpose.

1632. Is there a separate committee appointed for the Appeal Court?—Under the Income-tax Act they are a separate body brought out from the Commissioners; but, as to valuations, they have all the power of attending the Valuation Appeal Courts; I was wrong in saying, that they were selected; I meant specially invited by the clerk.

1633. The whole body of Commissioners in a body may attend; how many are there?—A large number; 200 or 300. It also embraces provosts and a portion of the municipal authorities of such places as Kilmarnock; and the court, I think, when constituted, has a complete knowledge of the district, and the members of the court are well able to judge of the value of properties appealed against.

1634. Are they as well able to judge of questions of legal construction as other matters, or would it be as well that these questions should go to a fixed judicial tribunal?—The Commissioners are represented through their clerk as well, who guides them in point of law.

1635. He is a sort of assessor to them in point of law?—Yes, and he attends all those courts.

1636. On the whole, do not you think there would be more confidence when disputed questions of law arose, that parties should go in that case to the judges?—It is just a matter of opinion. I have no objection to it; but, at the same time, I do not see any necessity for it; I think that the Commissioners of Supply are far better judges than the judges of another court, who do not know anything about the property, could possibly be.

1637. In matters of value?—Yes.

1638. What are the per-centages in your county rates?—The rates collected in the county of Ayr are rogue-money, a farthing per pound; valuation assessment, excluding railways, $\frac{1}{8}$ *d.* per pound; police assessment, $1\frac{3}{4}$ *d.* per pound; prison assessment, a farthing per pound; register of voters, $\frac{1}{8}$ *d.* per pound; court house assessment, a farthing per pound; and bridge money, a farthing per pound.

1639. The Right Hon. *E. P. Bouverie.*] Do you collect these separately?—They are all collected by the collector for the county; the same gentleman collects all.

1640. But are they collected at the same time?—Oh, yes.

1641. Not as separate rates?—No, the same notice embraces all these; they are added up, and come to about 3 *d.* a pound.

1642. *Chairman.*] Then the Commissioners laying on the assessments levy the rates you have given, and they are added up, and the demand is made for the whole?—They require to raise certain sums for all these purposes, and the calculation is made to ascertain what rate per pound will realise these sums.

1643. Right Hon. *E. P. Bouverie.*] Are the ratepayers informed what fractions of their rate are due to each respective head, or is it taken in a lump?—They get a notice showing the rate for each.

1644. *Chairman.*] No deductions are allowed from the valuation on account of repairs and maintenance with regard to these county rates?—With the exception of bridge money, on house property, there is an abatement of 25 per cent.

1645. Under what authority is that abatement made?—Well, I think it is under the authority of the Road Act.

1646. A local Road Act?—Yes, I think so.

1647. In regard to your own parish, of which you are collector and treasurer, they allow reductions: will you tell us what these are?—I may also say, in passing, there is road money collected in the county of Ayr.

1648. Which you have not given?—Yes. That is about 2,120 *l.* It is collected from the tenants, and the maximum rate is 20 *s.* per 100 *l.*

1649. It is collected parochially?—It is collected by the parish collectors.

1650. But

1650. But it is imposed parochially?—It is imposed by the road trustees, and collected by the collectors appointed by them.

1651. Is it a general rate over the whole county, or is it a rate imposed upon particular parishes and districts?—It is a rate over the whole county, the maximum rate being 20 *s.* per 100 *l.* of the valuation.

1652. Then how is there a maximum and a minimum?—Each parish knows its own wants.

1653. Exactly; that is, it is parochial?—The average is now 15 *s.* per 100 *l.* over the whole county.

1654. Then will you explain the deductions made in your parish of Kilmarnock?—The parochial board of the parish of Kilmarnock allow the following deductions from the rental in the valuation roll before assessing for poor rates, namely, proprietors of lands and minerals, 10 per cent; proprietors of railways and house property, 25 per cent; but no deductions are allowed to the tenants or occupants.

1655. That is to say, in laying on the tenant's share of the rate, he does not get the advantage of the deduction; his rate is assessed on what he pays the landlord, and on what he is supposed to put in his pocket?—Yes, but the tenants pay according to a classification, which I will explain. The gross amount of the assessment is about 5,000 *l.* annually, and it is collected under the following classes.

1656. Right Hon. *E. P. Bouverie.*] That is the gross amount raised?—Yes, yearly; the heritage is charged 11 *d.* per pound.

1657. *Chairman.*] On the owner?—On the owner.

1658. After the deduction?—After the deduction; and the occupants, beginning with the first class, which embraces dwelling houses and banks, are chargd 1 *s.* 6 *d.* per pound.

1659. That is the rate?—Yes.

1660. Will you explain how you get at that; do you divide the cumulo sum into two halves, and lay one-half on the owners according to the rental, subject to deduction; and then do you spread the other half over the whole body of occupants?—One-half of the amount required to be raised is raised from the owner, and the other half from the occupant. The next class consists of hotels, shops, warehouses, and business offices; these are charged 9 *d.* per pound. The third class consists of railways, mills, foundries, iron-works, manufactories, brickworks, quarries, gas and water-works; these are charged 5½ *d.* per pound. The next class embraces the tenants of land; they are charged 3½ *d.* per pound.

1661. That is a classification adopted under the sanction of the Board of Supervision?—Yes.

1662. Under a recent Act?—Yes.

1663. You had formerly "means and substance," had you?—Yes.

1664. And you gave up that?—We gave it up even before it became necessary by law to do it; to get rid of a good deal of heart-burning that existed in the parish.

1665. Right Hon. *E. P. Bouverie.*] How long have you had this alteration?—It was made a few years ago.

1666. Is it working satisfactorily?—Yes, it works with perfect satisfaction in Kilmarnock.

1667. You have not the same inconvenience and heart-burning to which you referred under the "means and substance?"—No, we have none at all.

1668. Mr. *Baxter.*] Do you find that classification gives universal satisfaction?—Our board, I may say, embraces all classes in the parish, proprietors, and factors, and merchants of all kinds; and the occupants who are not members by law of the parochial board, are represented by a body nominated by themselves.

1669. Elected by themselves?—Yes.

1670. *Chairman.*] This classification was first agreed to by the board?—It was agreed to after a good deal of consideration and adjustment by skilled committees. This classification was considered fair, and it has been working satisfactorily.

1671. What did you aim at in that classification?—I think it was to get at the means of the parties.

1672. You looked upon it as a substitute for the old "means and substance," and so tried to get at it as a fair test of what might be considered reasonable?—To raise about the same sums the same parties paid under the old system.

1673. And you have got to a fair criterion of their wealth and ability to pay?—Yes, the system is working well; and the assessments are all collected, and everything is comfortable.

1674. Are there any other assessments collected on the same principle?—We collect in the burgh registrar's fees, burgh valuation, and fees for registration of voters, and for prison assessment, at a penny and a half-penny, and a half-penny and a penny respectively. Half is collected from the owner, and the other half from the tenant. There is also a nuisances' assessment on heritage, and, besides these, we collect, from the occupants, police rates at 1 *s.* 2 *d.* in the pound; court house rates 1½ *d.* in the pound; road money 2⅔ *d.*; and street improvements 1 *d.* in the pound.

1675. What kind of manufactories have you in your district?—We have none of any very great extent.

1676. You have a good many in the burgh; are you not assessor for the burgh?—They are not very extensive, but we have manufactories.

1677. On what principle do you value the manufactories?—I endeavour as near as possible to ascertain the worth of the building, and put a reasonable per-centage on it.

1678. That is to say, the original cost?—Not the original cost; the worth of it at present.

1679. The present actual value if it was sold?—Yes.

1680. And you put on that a sort of per-centage; have you any stated per-centage?—Well, about 7½ per cent, generally.

1681. Do you put the same on machinery, as it is considered heritable machinery?—Yes.

1682. And you do not allow anything for wear and tear?—I just include the machinery, and assess it at the same rate as the mill.

1683. And then from all, you take this gross reduction of 25 per cent.; I suppose house property includes mills?—They get 25 per cent. on house property.

1684. And mills are included in that?—And then the occupant is charged at a less rate per pound in the classification.

1685. In making up your valuation you don't make a greater reduction from the mills than from house property?—Oh, no; we make no deduction at all; we put it in at the gross value.

1686. Is there anything you would like to state to the Committee that I have neglected to inquire about?—I have heard something said as to whether rates should be taxed on the gross or the

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nett value. I am of opinion that they should be taxed on the gross value, and that the assessor should have no power beyond entering the true value of the properties in the roll.

1687. Would you take away from the parochial board the power of making these deductions?—No; I would not take away from the parochial board the power, but I am of opinion that the assessor should have no such power.

1688. You think it a right power to be exercised, but that it should not be exercised by the assessor?—Yes; I think it would be throwing a responsibility upon him that he ought not to hold.

1689. To whom would you assign it in reference to other rates than poor's rates; I mean in reference to county rates?—If to anybody at all, to the Commissioners of Supply.

1690. You think they might be safely trusted with it?—Yes, with any abatement that they considered necessary.

1691. With fixing the abatements on the different classes of property?—Yes.

1692. And you think their judgment, considering that they are almost entirely of one class, would be as satisfactory as that of an assessor?—The Commissioners embrace a diversified body of gentlemen now, the qualification being 100*l.* a year.

1693. Are not the great mass of them purely landed proprietors?—Yes; but still there is a sufficient mixture of all classes to ensure a sound management of any public trust.

1694. It would ensure information; but would it ensure a judgment that would give satisfaction to people of the different classes?—Yes, I think so.

1695. In the case of manufacturers; if the decision was given against them, you do not think they would complain that the landowners were about twenty to one outvoting them?—I do not think the landowners capable of arriving at a judgment, doing intentional injustice.

1696. I am not supposing that, but I am speaking of the contentment or confidence that will be reposed in their judgment by the people?—There is no complaint at present; I think I may safely say that there are scarcely any appeals in the county of Ayr.

1697. They have no deductions to make at present?—And no complaints accordingly; there are no complaints.

1698. I suppose people are satisfied with your valuation, and there are no appeals?—We have in my district three appeal courts annually.

1699. How many appeals have you?—The time occupied is about two hours in each court.

1700. Then they are generally satisfied with your valuation?—Yes, I am generally able to adjust all cases except a few, which I think I am in duty bound to bring up to get a judgment with some authority. I may also state, that if the assessment roll was reduced, there are many assessments raised by the rate of so much per pound; and if you had a reduced rental, the necessary sum would not be raised at all.

1701. You would have to establish a larger rate if you reduced the rental?—But the rate is fixed; in our police rates we have a maximum, and if you reduce the valuation roll, you would not be able to raise the necessary sum to carry on the trust.

1702. The reduction of the valuation roll in some places would require to be provided for?—Yes; I heard something said to-day about the Crown officers; whether they are more efficient than other officers.

1703. The Right Hon. *E. P. Bouverie.*] The assessor of income tax, you mean?—The surveyor of taxes.

Mr. *Baxter.*] It is not so much a question of their efficiency as to the fact of there being a right to appeal. Nothing was said about their efficiency.

1704. *Chairman.*] We heard more about the advantages of an appeal given in one case and not given in another?—That could easily be rectified by giving a power of appeal.

1705. I formerly asked your opinion about that?—I have also heard it urged in some quarters that the Crown officers are a better class of officers for that particular duty. Now, although it may be supposed that I am personally interested in this matter, my interest is very small indeed, because my allowance from the county is a very small one; therefore, my opinion is perfectly free from any self-interest in the matter. I may state generally that the officers appointed by the Commissioners of Supply are appointed because they have skill at the date of their appointment. Crown officers only acquire skill after a number of years' service. They have no skill at all when they are appointed.

1706. It not being part of their present duty?—They are required to learn it after a series of years.

1707. If it were a part of their present duty, I presume the Crown would look out for people who could perform it?—They get nominations to the office when they are young men without any business experience at all.

1708. Have you any other suggestions to make?—I heard one of the witnesses to-day state that feus ought to be introduced into the valuation roll as a separate property and the superiors charged. I hold that they are included in the properties themselves; that if you put the full value on properties, the feu is embraced.

1709. If you do not allow the vassal a deduction of his feu duty, it would not do to rate the superior again; but supposing the vassal was allowed a deduction in the valuation of his property of the sum paid for feu duty, that objection would not apply?—If feu duty is abated, it would be quite right to bring feu duties into the roll, as a valuation against the superior. I heard it also stated by a witness that some allowance should be given for a mill destroyed by fire or from other causes; from a flood.

1710. It was the case of a weir?—I think that is just a destruction of capital.

1711. The construction of a weir is part of an expense necessary for maintaining a mill?—It is just a portion of the mill itself; just the same as if a mill was burnt. I think you would not get any abatement for a house burnt, but it would afterwards disappear from the roll.

1712. The Right Hon. *E. P. Bouverie.*] Would it let for as much?—You would just require to restore it by sinking new capital. I also heard mooted a difficulty in which I have had some little experience myself, namely, where minerals are sublet at a profit. It is doubtful whether they have power to put an increased rent in the roll, the lease being under 31 years.

1713. *Chairman.*] In your opinion, it should be done?—Yes, I think so; and the same with regard to houses built by a tenant whose lease is under 21 years.

1714. You

1714. You would include those, charging the tenant as the owner for the time, would you?—Yes.

1715. Supposing a tenant erects houses for his farm servants, or for any other purpose, and does not pay any higher rent, and you would treat him as the owner of the houses during the time being?—Yes, I would increase the valuation to the extent of the buildings.

1716. You would not increase the valuation to the landlord?—I would put it in as against the tenant as proprietor during his lease.

1717. But you must put it against the one or the other; if the landlord gets no increased rent you could not put it against him?—I should put it against the tenant who erected the buildings.

1718. And treat the tenant as the owner for the increased value?—Yes. I would like also to mention my experience with regard to railways. I think that 3 per cent. on the cost of stations is a very moderate valuation.

1719. You think it is too small?—It is too small.

1720. You would have them valued according to their worth?—Yes.

1721. And valued in the parish in which they happened to be, and not as part of the general undertaking of the railway; is that your view?—I think they ought to be valued the same as any other house property at a fair and reasonable per centage on the cost, and that the value should be given to the parish where they are situated. There is another point; we have in our parish a railway company which built a great many dwelling-houses, and these dwelling-houses are let to workmen at rents probably yielding not less than 7½ per cent., and, by a decision of Lord Ordinary Kinloch, these dwelling-houses were held as a portion of the undertaking.

1722. And so spread over the whole of the parishes?—Yes; valued at 3 per cent. on the cost, they drawing 7½ per cent., or 8 per cent.

1723. It is not only that they are valued at a smaller sum, but instead of your parish getting a rate on the whole, the amount is spread over?—We get the rate from that rental; they are held as a portion of the station.

1724. The Right Hon. *E. P. Bouverie.*] Are they attached to the station?—Well, they are about a quarter of a mile off.

1725. On railway ground?—On ground feued by the Railway Company; I may state that I was present at a discussion in Edinburgh before Lord Mackenzie, and the parish and the railway company were represented by counsel, and in that case, Lord Mackenzie, after giving the case a good deal of consideration, was of opinion that these dwelling-houses were not a portion of the undertaking; but, unfortunately for the parish, his lordship requested the production of the title, and by the time it was produced, Lord Kinloch sat as Lord Ordinary, and he said he did not care; although the house were John o'Groat's, he would hold them as a portion of the undertaking; hence the parish lost the case, and we are losing 40 *l.* or 50 *l.* a year ever since, in consequence.

1726. That decision has been accepted ever since?—It is a final decision.

1727. Are they going to carry it any further?—I think we cannot; I do not mean to say that the whole railways are undervalued, but on these points they are undervalued. I think the railways on the whole, pay a very full share of the assessment.

1728. *Chairman.*] Have you any instances in your district of railways passing through different parishes, and different rates of deduction being allowed in each separate parish?—I do not comprehend the question.

1729. A railway passes through several parishes, in all of which there are rates levied; are the deductions uniform?—No; the deductions are not uniform in the county of Ayr.

1730. Can you give us any specimens of the valuations and deductions on the same railway?—I have a table here, showing the deductions in all the parishes in the county.

1731. Just mention one or two of the most striking illustrations?—In Ayr, railways get 25 per cent. deduction, both as owners and occupants. In Dundonald, they get the same rate; in Muirkirk, 25 per cent.

1732. Give us some specimens of difference?—I see, in one parish, Beith, they get 35 per cent., whereas 25 per cent. is the highest, with that one exception.

1733. What is the lowest?—Fifteen per cent.

1734. On the same railway that you are speaking of?—The same railway, the Glasgow and South Western; the average is mostly 20 or 25 per cent.

1735. Mr. *Mackie.*] Which is the parish giving 15 per cent.?—Dalmellington.

1736. The Right Hon. *E. P. Bouverie.*] The valuation of the county increases very rapidly?—Oh, yes; it is nearly one million at present.

1737. What was it at the commencement of the valuation; do you remember?—Well, it has increased, I suppose, three hundred thousand, fully.

1738. Sir *John Ogilvy.*] Since 1854?—Yes.

1739. The Right Hon. *E. P. Bouverie.*] Do you find, practically, much difficulty in re-adjusting the valuation from year to year?—No, I do not find any difficulty; but I think if property was classified either by the boards or the assessor, there would be great difficulties.

1740. I understand you to say, you think that the assessor in all cases should take the gross rental, irrespective of all deductions that ought to be made, as the proper assessment?—Yes.

1741. And then, whatever deduction should be made should be made by the authority to which appeal is given?—Yes.

1742. And that those deductions should be made by classes, I presume?—Yes; I do not think it is possible so to classify property as to be thoroughly just.

1743. *Chairman.*] That is to say, perfectly accurate?—No; because they are so varied in age and state of repair, and so on. You have old thatched houses, old slate houses, new and modern houses; and it is impossible to adjust them in three or four classes.

1744. It would be nearer equity than the gross, I presume?—When parties invest money in property, they do so having a full knowledge of all the rates and burdens that will fall on them, and, if they chose to invest in house property of a character that is not valuable, of course they will have to sustain losses by the non-payment of rents; but yet they realize a far greater rate of interest than first-class property.

1745. Then you would abolish deductions in poor rates as well?—I would abolish deductions; so far as I am speaking of my own opinion, I would

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would have no deductions at all; I would charge everything on the gross rent.

1746. The Right Hon. *E. P. Bouverie.*] Everything all round?—I think that is the fairest way, but at the same time, if there ought to be deductions, I think local boards and not assessors should be the judges.

1747. *Chairman.*] I am not speaking of the trouble taken by the assessor in doing it, but would there be difficulty other than the trouble in making the deductions?—I think if it was thrown upon the assessor in each individual case, there would be jealousies and ill-will spread through the county, and that would be a very unhappy state of matters.

1748. Supposing it were done in classes, what do you think of that?—I have already said it is difficult to embrace them in classes.

1749. Would there be any difficulty in making a classification beyond the trouble?—There is no difficulty in putting them in classes, but I think there would be injustice done to certain classes of property.

1750. You could not make it quite perfect?—You could not make it perfect, nor nearly so; I also heard it mentioned about mansion-houses; that sometimes it is imagined by people that mansion-houses are not rated high enough; the Valuation Act does not warrant an assessor to put a per-centage upon a gentleman's mansion-house; he must value it at what it would let one year with another, and my experience is that if you displenish a large house you will not be able to let it at all.

1751. The Right Hon. *E. P. Bouverie.*] The larger the house the less the rent; do you carry that out in practice?—Yes, as near so as possible; I can state the case of Loudoun Castle, perhaps the largest house in the county of Ayr, that was let a few years ago with eight or ten rooms furnished at 100 *l.* a year.

1752. *Chairman.*] What do you put upon it now?—It is in the roll at 200 *l.*; that includes the garden; it is a very large castle.

1753. Mr. *Mackie.*] In the instance you have given us as to the small per-centage on the Glasgow and South Western Railway, cannot you account for it in this manner, that it was a purely mineral line, built by a private person, and that the wear and tear of it was not very great?—Oh, no, it is not; it belongs to the Glasgow and South Western Railway Company.

1754. Now it does; but, in the first instance, who made it?—It was made by the Glasgow and South Western Company from Ayr to Dalmellington.

1755. Were not there two or three miles in the first instance purely mineral?—There might be at the very end.

1756. Is not it within the parish of Dalmellington?—I have no doubt it was re-formed by the present company.

1757. It is a purely mineral line the first three miles?—They have passengers from Ayr to Dalmellington regularly.

1758. But in the first instance, when this per-centage was fixed, was it not a purely mineral line?—I do not know when this per-centage was fixed at all. That is the present mode of working it. I got a return. I sent out a circular to each parish in the county, from which I framed this table.

1759. *Chairman.*] The parish of Dalmellington get their proportion of the total valuation of that railway?—They just get 15 per cent. as owners.

1760. What is the valuation taken from?—It is taken from the railway assessor's roll.

1761. And that is a proportion of the total value of the railway proportionate to the mileage in the parish?—Yes.

1762. Sir *Graham Montgomery.*] Is the revenue of that branch line distinct from the revenue of the main line?—Oh, no, it is all a portion of the scheme. I may mention, also, in the county of Ayr we add drainage as part of the rent. In some counties they do not do that, but they deduct it.

1763. It has been decided by the Court once or twice, and it is generally done now?—Yes. I think I may state, in conclusion, it seems hard that a property heavily bonded, covered with bonds, that there should be no power to retain a portion of the rates from the lender.

1764. *Chairman.*] You would enforce that by Act of Parliament, whatever the contract was?—I think so; a poor proprietor with his property burdened to as great an extent as he can get money advanced on it, has to pay all the rates, while the rich bondholder gets his interest without any rate whatever.

1765. If the proprietor borrowed money at 5 per cent. from a rich man you would let him off for less, and allow the lender a lower rate of interest than he bargained for?—I would make him pay a proportion of the rates.

Mr. Robert Paterson, called in; and Examined.

Mr. *R. Paterson.*

1766. You are the Assessor for the Burgh of Edinburgh?—I am.

1767. How long have you been assessor?—I have held that office since the passing of the Act.

1768. Had you previously had any training as a valuer?—Yes; I was valuator for the local boards of the city of Edinburgh, from 1846. I was educated for the profession of architect and valuer in a course of about eight years' service with builders and architects.

1769. And your father followed the same profession?—My father held the office of official valuator in Edinburgh for 24 years prior to 1846, and I was educated for the profession under his superintendence.

1770. Is your experience confined to Edinburgh, or have you had opportunities of valuing elsewhere?—I have valued in all parts of the country of Scotland as a professional valuer.

1771. What is the population of your borough; you do not go down to Leith?—No, I do not go to Leith as official valuator. The population of Edinburgh in the last census was 168,121.

1772. What is the rental?—The rental for 1864–65 was 971,888 *l.*

1773. And the number of entries in your roll?—The number of entries in the roll for 1864–65 was 43,468.

1774. How many appeals, on an average, have you?—I have a table here showing the number of entries in the valuation roll, and the number of appeals in each of the last five years. The number of appeals last year was 31; 25 of those were

were rejected, three were partially sustained, and three wholly sustained, the appellants prevailing in those three cases.

1775. Has that proportion existed for some years?—Very much that proportion.

1776. What deductions are allowed from the valuation in Edinburgh?—For the police assessment the deduction is 20 per cent. over properties of all descriptions.

1777. Is that by Act of Parliament?—Yes. In prison registration and road money there is no deduction made, and in the poor rates in the city parish there is a deduction of 20 per cent. over all, excepting railways, which have 35 per cent. Then in St. Cuthbert's parish the general deduction is 7½ per cent., and on railways 22½ per cent. In the parish of Canongate the general deduction is 20 per cent., and on railways 35 per cent.

1778. Your district extends over all these?—Yes. In the parish of South Leith the deduction is, for land 20 per cent., and for railways 35 per cent.

1779. Then, in St. Cuthbert's and Canongate there is no distinction, except for railways?—No. Then, in North Leith parish there is a general deduction of 10 per cent.

1780. What is the deduction on railways?—There is no speciality in regard to railways; it is 10 per cent. over everything. At Liberton there is no deduction at all, and at Duddingston the deduction is 16¾ per cent. over all. We have a very small proportion of those two parishes in Edinburgh.

1781. Mr. *Mackie.*] Then, in point of fact, there is no deduction at all?—There is not. Our principle is the gross rent.

1782. It is the same thing, excepting in regard to railways?—Excepting in regard to railways.

1783. *Chairman.*] You think the valuation of Scotland has been greatly improved since the Act?—I think the system of valuation has been very much improved; under the old system we could not get the requisite information to enable us to make up accurate surveys.

1784. You have greater facilities in getting information?—Yes, we have the best facilities for ascertaining the facts in regard to property let.

1785. Do you ever have false returns?—We call for returns on let property from all owners and factors, and for two or three years after the passing of the Act we had several cases of false returns, but I was fortunate in detecting a number of them, and I sued for the penalties. That was done two or three years in succession. The parties were exposed, and I think it has been completely checked. I believe the returns are now thoroughly accurate.

1786. Then in regard to houses and shops in possession of the owners, how do you proceed?—They are valued generally by comparison with similar houses which are let. This perfect information with regard to the let property gives us the power of valuing, by comparison, the property in the possession of owners.

1787. In regard to manufactories and breweries, how do you manage?—In regard to manufactories and breweries and distilleries we have not the power of comparison, because they are very seldom let; but in the case of all such property we value the buildings and mixed machinery, and take a per-centage upon that value.

1788. Do you value them as in their existing state?—As in their existing state.

1789. What per-centage do you allow?—Seven and a-half per cent. on buildings and machinery, and 4½ per cent. on the land.

1790. On the land occupied?—Yes; valuing it at its present value.

1791. Then you treat machinery and buildings on the same footing?—We take the same per-centage. My system of ascertaining the present value of such buildings is by taking the cubic contents, and fixing a rate on the quantity, allowing of course for old buildings and buildings out of repair.

1792. And that, on the whole, you think quite a satisfactory way?—I find it very satisfactory. I have noted a case here that occurred just last year, of a new brewery which I measured and calculated. I brought out 3,822 *l.* as the cost of the buildings, and on comparing that with the actual contract sum, which the proprietor exhibited to me afterwards, it turned out that I was just 15 *l.* under the net cost.

1793. With regard to old buildings, you occasionally have a sale which enables you to judge of the value?—I have been rather frequently employed to value buildings of that kind; breweries and distilleries, as between buyer and seller, and of course that has given me the best opportunity of knowing how to deal with those cases.

1794. Are there any other modes of valuation adopted?—Yes; there is a system of valuing by the square yard of floorage; manufacturers, for instance, generally estimate themselves in that way. They say they can erect workrooms and warehouses and stores at from 15 *s.* to 20 *s.* per square yard of floorage; and that system has been adopted by many valuers.

1795. What is your view as to the preference to be given to your mode?—I think it is just a mere system of methodising the thing; it is no matter which way you take it, if you fix the cubic or the floorage rate correctly; I believe the one will turn out as accurate as the other.

1796. Some complaints have been stated to us here in reference to the valuation of mills, not within your borough, but in the county of Edinburgh; how far do you consider there are grounds for those complaints?—Well, I think the valuation chiefly referred to was that of Messrs. Cowan's paper works; I heard their agent give some evidence here in regard to their mills.

1797. You were present when the examination took place?—Yes; I was employed by the Commissioners of Supply to value those buildings with reference to the appeal that was taken against the assessor's valuation; I did so on my own system, and brought out rather more than the assessor's value; there was a thorough investigation of the whole case, counsel were employed on either side, and the Commissioners unanimously refused the appeal, and I think very properly.

1798. Then you do not think there was anything in the objection that these were built originally for another purpose, and therefore were more extended than was at all necessary?—I took into account the position, the nature of the buildings, and everything affecting them in fixing my value; there is no waste buildings about those mills, nothing of the sort; all the buildings seem to be quite suitable for the purposes to which they are applied.

1799. You heard on the same occasion some

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reference made to two mansion-houses?—Yes; Mr. Menzies, in raising the question as between mansion-houses and mill property, cited two cases of mansion-houses that were let, evidently in order to show that mansion-houses might be let at large sums, and I think he stated the rent of the one to be 350 *l.* and of the other 450 *l.*, but he ought to have stated that they are let for educational establishments.

1800. Do you not consider the circumstance of the neighbourhood being such that gentlemen's houses have that means of being let; is not that an element that you might take into account in valuing the property?—I think it would be quite monstrous to take two cases of mansion-houses let for boarding schools, and to say that all the mansion-houses in a district might be used for a similar purpose, because there could be no such thing; those cases are quite separate, and cannot be made rules for others.

1801. Would not the facility that the proprietor might have, in particular circumstances, of so letting unused houses be an element that might fairly enough be taken into view in estimating the value of the houses?—I cannot see it as a facility at all; I do not see that there is any facility for doing that, because these are the only two I know of in all the mansion-houses within 10 or 12 miles of Edinburgh, and there are a very great number there; I do not see that these can be taken as a test in any sense; besides, I think very few gentlemen would let their houses for that purpose.

1802. If other gentlemen wished to let them for that purpose, they would probably get similar rents?—I think, in valuing property, you are bound to look at the purpose for which it is erected and used, and not at a different purpose; it is quite a different use from what that property was destined for, and it cannot be taken as a rule for valuing other property not so used, as far as I can see.

1803. At what rate do you value machinery; do you value it along with the buildings?—Along with the buildings.

1804. Do you not think that difference should be made between the value of the buildings and the value of the machinery, which is in constant action and is subject to a great deal more wear and tear?—It has been a complaint, that the fixed machinery in manufactories is valued at a high rate, and no consideration given for the large expenditure in keeping such machinery in repair. It is quite true that the machinery is very expensive to maintain, and that considerable expenses are incurred in consequence of new inventions and other changes necessary to meet the varying requirements of trade; but then the 7½ per cent. is taken in this view, because no capitalist would supply and maintain machinery for 7½ per cent. upon his outlay. He would require to nett that; therefore, practically, the machinery part is at the nett rent.

1805. If the one requires a much greater outlay to keep it up than the other, I mean machinery than buildings, is it consistent with principle to treat them exactly on the same footing?—Well, I wish to explain that they are not treated on the same footing; because, if I were to value the machinery in a mill at the sum which a capitalist would require as rent to supply and to maintain it, I would enter it at 15 per cent.

1806. Then you get the difference, in the amount you attach, as value?—Certainly; because that is a description of property which I hold ought to be taken at the nett rent; and I may say that on this principle I allow deductions for maintenance to gas and water companies, and I think the same principles ought to be applied to railways.

1807. With regard to railways, have you any observations to make?—I think the present system of assessing railways in Scotland is very unsatisfactory as affecting railway companies, as well as the parish authorities.

1808. Will you state the points in which you think it is unsatisfactory?—Well, it is open for the railway company to claim any deductions they think fit, and, as a great majority of the parishes are either afraid or unable to fight with railway companies, they must submit to whatever deduction is demanded. Then the railway company, on the other hand, have reason to complain of their having to deal with each parish separately, instead of with one central authority, on the question of deductions.

1809. What is the remedy for that?—Well, it would be a great advantage I think to all parties, if the valuation roll, as made up by the assessor of railways, set forth the assessable rental in each parish, and that no deduction in any case be allowed from such rental.

1810. That is to say, the assessor should make the deduction?—He does not allow the deduction for maintenance of the plates on the permanent way; I think he ought.

1811. Then all these deductions which are now made by the board ought to be, in your opinion, made by the assessor himself before he puts down the sum at which they are to be rated?—I think so. I have no doubt the railway companies suffer a great deal themselves in a great many cases, and the parishes suffer also by the present system.

1812. With regard to apportioning the rates among the parishes, what is your opinion?—I think the present mode of distributing the rental of railway property amongst the several parishes entitled to participate in it is very unjust to the boroughs and other populous places in the country. In regard to stations, the present statutory rule is to estimate the cost or value of the buildings and land belonging to the railway company, and to give 3 per cent. on that amount as the gross annual value of the stations, no distinction being made in regard to locality further than what might arise from the cost of the site; so that a station situated in a barren moor is valued at the same rate as a station in Prince's-street, Edinburgh, or Queen's-street, Glasgow. Of course there is a consideration there in the site, but only the site, and this is felt to be unfair, because, while the ordinary property in the immediate neighbourhood of those stations is yielding from 7 to 10 per cent. and is assessed accordingly, the railway property is reduced to 3 per cent., and the difference is sent away to the country parishes, which I do not think have anything to do with it.

1813. You would sever the stations entirely from the undertaking and value them separately at their real actual value in the parishes where they are situated?—I do not think I would separate them from the undertaking, but I think they ought to be valued as other property in the parish. I do not care whether the railway assessor does it; it is no matter who does it, but it

it ought to be done with reference to the real value of the property in the place where it is situated.

1814. You do not go so far as to say it should be locally attached to the parish in which it is situated; you would allow the value of it to be spread over the whole length of the line; only you say the true value should be taken and not the 3 per cent.?—Oh, no; it is not at present spread over the whole line. It is set out at 3 per cent. for the locality in which it is situated, but what I say is, the difference is spread over. If it ought to be 7 or 10 per cent., then the difference between that and 3 per cent. is sent away to the country. There is also a great dispute about the line of demarcation between the railway assessor and the local assessors as to what is the undertaking and what ought to be valued by him and reduced to the 3 per cent. The local assessor says that nothing should be held to be a part of the undertaking but what is actually used by the railway for their own legitimate purposes, while the railway assessor seems inclined to hold that all property belonging to or leased by a railway company ought to be included in this valuation, and so reduced to the 3 per cent. value.

1815. You would have it determined by a statute, or some tribunal?—It is quite necessary; it should be determined by statute. At present, as was stated by Mr. Wilson, the railway assessor, has included blocks of workmen's houses and many other subjects; and one Lord Ordinary lately even went the length of saying that if a railway should lease an estate in the Highlands, he would hold it to be part of the undertaking.

1816. What is the line of demarcation you think there should be?—Well, I think it should be the property that remains in their own occupation for the purposes of the railway; whatever is let to other parties ought to be separate from the undertaking, and assessed at the real value paid for it.

1817. You have stated the case of workmen's houses?—They ought to be assessed.

1818. Supposing the company allow the houses to be occupied by their own workmen, and do not let them, of course that would be a consideration?—In a case of that kind, I would have them valued the same way, and charged as separate subjects. I may just refer to the necessity for such a distinction. For instance, in Glasgow, the Queen's Hotel, and a number of other hotels around that station, belong to the Edinburgh and Glasgow Railway Company, and I have no doubt that if this system is not checked, we will soon have them included in the railway assessor's value, and reduced to 3 per cent. In Edinburgh, we have Croall's Horse Bazaar, for instance, in the Lothian Road, which belongs to the Caledonian Railway, and I should not wonder if that will not be soon included in the 3 per cent. valuation.

1819. But it is not included?—It is not just now.

1820. The Right Hon. *E. P. Bouverie.*] How does that arise?—It arises from a reading of the Act; and I may just say, one Lord Ordinary took one view of the question, and another the opposite view.

1821. *Chairman.*] Will you read the words of the Act?—The words are "part of the undertaking" (it is in the 21st section), "on or before the 15th day of August in every subsequent year inquire into and fix in cumulo the yearly rent or value, in terms of this Act, of all lands and heritages in Scotland belonging to or leased by each railway and canal company, and forming part of its undertaking; and shall also inquire into and fix the amount which, one year with another, would be required, in order to the acquisition, formation, and erection of the several stations, wharfs, docks, depôts, counting houses, and other houses and places of business respectively in Scotland of or connected with each undertaking (including the solum on which such stations and others are erected), and shall also inquire into and fix all other matters necessary to enable him to make up a valuation roll of railways and canals, as after mentioned, and such assessor of railways and canals shall make up a valuation roll applicable to all railway and canal companies having lands and heritages as aforesaid, in which valuation roll shall be set forth, in columns, the yearly rent and value, in terms of this Act, of the whole lands and heritages in Scotland belonging to or leased by each such railway or canal company respectively, and forming part of its undertaking; the names of the several parishes, counties, and burghs through which the line of such railway or canal company runs, or in which its said lands or heritages, or any part thereof, are situated; the lineal measurement of its entire line, and the portion of such lineal measurement situated in each such parish, county, and burgh; the amount of the cost, as aforesaid, of its several stations, wharfs, docks, depôts, counting houses, and houses and places of business in Scotland (including, as aforesaid), the proportion of such gross amount expended in each such parish, county, and burgh, and where any stations, wharfs, docks, depôts, counting houses, or other houses, or places of business are held, or used jointly by any two or more railway or canal companies; the proportions in which such railway and canal companies are respectively interested therein, and also the yearly rent or value, in terms of this Act, ascertained as after mentioned, of the portion in each parish, county, and burgh in Scotland, of the lands and heritages belonging to or leased by each railway and canal company, and forming part of its undertaking." Then the 22d section of the Act provides as follows:—"The yearly rent or value, in terms of this Act, of the lands and heritages in any parish, county, or burgh belonging to or leased by any railway or canal company, and forming part of the undertaking of such company, shall be ascertained as follows; that is to say, there shall be deducted, in the first place, from the cumulo yearly rent or value of the whole lands and heritages in Scotland as aforesaid, of each such railway or canal company, a sum equal to 3 *l.* per centum of the whole cost as aforesaid of the stations, wharfs, docks, depôts, counting-houses, and other houses and places of business in Scotland, of and connected with the undertaking of such railway or canal company (including as aforesaid); and the proportion of such diminished cumulo rent or value corresponding to the lineal measurement of the portion of the line, including ferries attached thereto, of such railway or canal company, situated in such parish, county, or burgh, as compared with the lineal measurement of the entire line, including ferries as aforesaid, of such railway or canal company, with the addition of a sum equal to 3 *l.* per centum of the cost as aforesaid, of any station, wharf,

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wharf, dock, depôt, counting-house, or other house or place of business, within such parish, county, or burgh, or of or connected with the undertaking of such railway or canal company (including as aforesaid), shall be deemed and taken to be the yearly rent or value, in terms of this Act, of the lands and heritages in such parish, county, or burgh belonging to or leased by such railway or canal company, and forming part of its undertaking." Those are the words.

1822. You do not mean to say the Queen's Hotel, in Glasgow, was assessed at 3 per cent., but only that you apprehend it may be?—I have heard it threatened that it would be ultimately included, and most unquestionably if this Lord Ordinary's view prevails, it would at once be included.

1823. You still include the Croall's Bazaar in your valuation?—Yes; but this Lord Ordinary, in order to make it quite plain to what extent he would carry it, cited an estate in the Highlands. Now it would be far more absurd to take that than to take an hotel adjoining the station.

1824. You think, on that authority, they are likely to claim the hotel?—I have no doubt that will be the result unless there is some check.

1825. In allotting the shares of the gross cumulo valuation of a railway to the different parishes through which it passes, do they assign an equal proportion to the small branch lines as to the trunk line?—Yes; that is another great cause of complaint; the present statutory rule is to apportion the aggregate valuation on the mileage of the whole system of railways belonging to or leased by any company equally; that is to say, there is no distinction between a great trunk line and a subsidiary branch, no matter although the one may be yielding a profit of 1,000*l.* a mile and the other entailing a loss, the valuation is spread over all.

1826. Then you propose that the branch lines, at all events, should be valued separately?—Yes; the mode of distribution in England is much more equitable; there the basis of distribution is the earnings within the parish in which the railway is situated.

1827. Can that be, or is that in point of fact, ascertained or ascertainable?—It is done in England just now. I admit, it seems to me that that plan is open to objection, as it must entail a great deal of work on the railway companies in keeping their accounts separately, but I do not see any difficulty in keeping accounts as for each main line and each branch. I think that could be very easily done.

1828. Substantially, you would thus avoid any gross injustice?—I think it would, because if the valuation of the main line and of each branch were ascertained, then such valuations could be apportioned upon the mileage of the main lines and the branches respectively. I believe it would be a perfectly easy thing to work out, and would produce much more equitable results than the present system.

1829. You are opposed to any change from the gross rental to the net rental, as a general rule?—Yes; I have considered that subject very carefully. I am quite satisfied, so far as my experience goes, a change from the gross to the nett rental would be a change for the worse.

1830. Will you explain the grounds on which you have arrived at that conclusion?—I have not arrived at it, because I think it would be impracticable to carry out a nett rent system. I think the mere labour portion might be done, although it would be very great in amount, and very irksome in its character.

1831. Are you now talking of a nett valuation of each particular property, according to its own deductions and costs?—I shall state my objections the other way.

1832. I wish to know which way you are now stating them?—I will take each individual subject first, and I think there would be great difficulties in equitably working out the system of nett rents, whether this were attempted by dealing with each individual subject or by a classification of subjects with statutory deductions for each class. The adoption of either system would produce some extraordinary, and I think unfair, changes in the incidence of local burdens. The objection to dealing with individual subjects is that claims would be made up of outlays on property whether these were necessary and economical repairs or whether they were whimsical alterations and extravagant outlays, and it would be exceedingly difficult to draw the line betwixt the two. Then tradesmen's accounts would be put in to verify such claims, and I do not see how it would be possible to check those accounts. For instance, it would be a very easy thing for parties to connive together and get 20 per cent. laid on to an account, and then deduct it without showing the deduction. In short, the facilities for fraud in that way would be such that I do not see how it would be possible to check them; even for a professional man, who knows prices; I do not see how he could do it. Then the diversity of rating, even within the same district, which would result from such a system, would give rise to much inequality of rating, and to endless dissatisfaction. As to the question of getting over the difficulty of the individual deductions in the first year, I have no doubt that would be the case in some districts, but not in large cities. It would be greater the first year, but there are always fresh materials for deductions arising, and we should have numerous questions every year no doubt. Then, as to classification, I think it would be impossible to classify subjects for relative rates of deductions in such a way as to avoid numerous anomalies. Classification, if it has any pretence to fairness, must proceed upon the nature of the subjects classified and the varying conditions affecting such subjects; a classification under the heads of land, land with houses, railways, mills, manufactories, distilleries, breweries, shops, and dwelling-houses, would be very incomplete, because within each class there are great differences affecting each property. In the case of land, we have pasturage, arable land, grass land, irrigated meadows, and such like, with reference to each of which the conditions vary very materially. Then, in the case of railways, why we have some almost on the natural surface, others have great embankments, tunnels, bridges of all kinds. Then, some are nearly straight along their whole course, and others have bad gradients and bad curves, all affecting the maintenance of the railway. Then, again, some railways may have 100 trains per day running on them, while others may not have over 10. Many such things would completely frustrate any attempt to classify, unless details were gone into in each class. Then, as to buildings, we have some old and some new, some built with timber, some with bricks, and others with stone, and within each of those classes of timber, brick,

brick, and stone, we have some fragile in construction and others substantial. These and other distinctions, it appears to me, would render it quite impossible to arrive with anything like accuracy or fairness at a proper classification of the subjects. Then, of course, the same difficulties attend an attempt to classify upon rental. It would be as difficult, because that would not get rid of the distinctions with regard to construction and age. I have taken some trouble to gather statistics to show the directions which these deductions would take, and to what extent they would affect the incidence of taxation. I examined the books of a gentleman, for instance, a very considerable proprietor in and around Edinburgh of all classes of property, and I just furnish this table which I took from his books. I took the average rental for five years, and the actual outlay for repairs in each of the five years, and struck a per-centage upon that. The first case is that of two shops in Leith; the rents are 31 *l.*, and they cost him nothing for five years for repairs. The next was 18 small houses in Edinburgh, rented at 9 *l.* 10 *s.* each, or thereby, the total rent being 170 *l.*; the total cost for repairs in the five years, 9 *l.* 3 *s.*, which is one per cent. on the rental. Then I took a country house, with an acre and a-half of ground, about 10 miles from Edinburgh, and that house was a very substantial property. The rent was 35 *l.*, and the outlay, during five years, was 37 *l.* 2 *s.* 3 *d.*, which was 20 per cent. upon the outlay. I took a mansion-house with about eight acres of ground, also about 10 miles from Edinburgh; the rent was 60 *l.*, and the outlay was 81 *l.* 4 *s.* 11 *d.*, which is 27 per cent.; that house was erected 17 years ago. I have a number of other tables, and that is an illustration.

1833. Might I ask, as to that last case you mentioned, of the 81 *l.*, what was included in it?—It was chiefly for painting and other repairs.

1834. You count painting a repair, do you?—Certainly; it would be claimed undoubtedly as a repair.

1835. Supposing you were valuing under the Poor Law Act, would you, as an assessor, deduct the repainting of a house as part of the expenses necessary for its maintenance?—I have no doubt, that if other repairs were granted, painting should also be granted; it is a repair, and would be claimed, and I think successfully.

1836. That is included?—That is included, but I may just say that this house was let on a nine years' lease; I don't take all; I think about four years of that lease are included in those five; but I take the account for painting, and divide it by taking the cost in each year, so that I don't take the entire expense; I spread the painting over the nine years of the lease. It is only the proportion of the account for painting, applicable to the four years of the lease already run, which is included in the 81 *l.*; I thought that was the fair way to take it.

1837. Does your experience correspond as to a larger sum being due for the better class of houses?—Yes; these returns confirm three conclusions I had previously arrived at; first, that the expense of upholding varies very much in the classes into which the property may be naturally divided. Second, that the deductions claimed in respect of the better class of house property would be larger than those for the low-rented property.

1838. Is that owing to the matter of painting?—Painting and general repairs; you have much more plumber's work in large houses; baths and washhand-basins, and all that sort of thing, are a great source of expense that you have not in smaller houses. Then, my third conclusion was, that while considerable deductions would be allowed in respect to the house property, the deductions in favour of shop and warehouse property would be comparatively small.

1839. Then another point you refer to is the alteration it would effect upon the incidence of taxation?—I have brought that out in regard to Edinburgh; assuming that the average deductions in favour of house property in Edinburgh were for houses rented at 4 *l.*, and under 10 *l.*, 5 per cent.; at 10 *l.*, and under 30 *l.*, 10 per cent.; at 30 *l.*, and upwards, 15 per cent.; the rental at 4 *l.*, and under 10 *l.*, is 82,584 *l.*; at 10 *l.*, and under 30 *l.*, 145,020 *l.*; at 30 *l.*, and upwards, it is 400,404 *l.* The total assessment on houses for the tenant's proportion of local rates is 93,547 *l.* – *s.* 6 *d.*, being at the rate of 2 *s.* 11¾ *d.* per pound. The proportion of this sum payable by each of these classes at present is; houses at 4 *l.*, and under 10 *l.*, 12,301 *l.* 11 *s.* 6 *d.*; at 10 *l.*, and under 30 *l.*, 21,601 *l.* 18 *s.* 9 *d.*; at 30 *l.* and upwards, 59,643 *l.* 10 *s.* 3 *d.*; but, if the deductions were made in the proportions I have given, the quotas would be altered as follows: at 4 *l.* and under 10 *l.*, 13,360 *l.* 5 *s.* – *d.* increase; 1,058 *l.* 13 *s.* 6 *d.*, equal to 3 *d.* per pound more on the assessment on the low class of houses. Then, at 10 *l.* and under 30 *l.*, the increase would be 627 *l.* 5 *s.* – *d.*, which is equal to 1 *d.* per pound more. Then, at 30 *l.* and upwards the decrease would be 1,685 *l.* 18 *s.* 6 *d.*, which is equal to a penny a pound less. This would have the effect of transferring the burden from the richer to the poorer classes of the community. That is for the houses.

1840. Is that on the tenants?—On the tenants. I account for the smaller cost in upholdiug the smaller class of houses from the fact that the requirements of the occupants of such houses are limited and inexpensive compared with those of the higher class; and one great source of expenditure, as I have said, in the better class is in papering and painting, an expense which is never incurred by the smaller class, because they do any painting they may want generally themselves, and the landlords are at no expense.

1841. Is there any considerable damage by the lowest class of tenants?—The very lowest class, but not the class that is within the range of assessment. We do not assess tenants in Edinburgh below 4 *l.* I find the tradespeople just as careful of their houses generally as other people.

1842. Are there no distinctions as to the deduction arising from the ornamental character of the houses?—Yes, I hold the expense of maintaining a higher class of houses in good order is greater than the expense of maintaining a low class of houses. With regard to shops, I wish to show what change in the incidence of assessment would occur as affecting them. With regard to shops, warehouses, and places of business in Edinburgh, the rule is that the owner possesses nothing more than the buildings. The fittings, counters, shelving, and the like, are the property of the tenant. The repairs chargeable to the owners of shop property are therefore exceedingly small; indeed, they amount to nothing more than his share of maintaining the roof, the street pavement, and the drains of the tenement of which the

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the shop forms a part; and the average deduction for repairs on shop property would not exceed 1½ per cent. on the rental. The average deduction on house property would be about 12 per cent. I am speaking of repairs alone just now. The transfer of local burdens from house to shop property would therefore be as follows: the rental of dwelling-houses at and above 4 *l.* may be stated in round numbers at 628,000 *l.*, and the rental of shops at 236,500 *l.* The present public assessments common to both amount to about 2 *s.* in the pound, yielding an aggregate sum of 86,450 *l.*, of which there is payable in respect of dwelling-houses 62,800 *l.*, and in respect of shops 23,650 *l.* If an abatement of 12 per cent. were made from the house rental, and 1½ per cent. from the shop rental, an assessment of 2 *s.* 2¼ *d.* would be required to produce the same amount. The proportion of the assessment payable on the reduced house rental would be 60,839 *l.*, and on the shop rental 25,611 *l.*, showing a reduction in the amount levied from houses, and an increase in the amount from shops, warehouses, and places of business, of 1,961 *l.*, which is equal to an additional assessment on the shops and places of business in Edinburgh of nearly 2 *d.* per pound on the gross rental.

1843. So far as regards the proprietor, it is the same thing to him whether he gets his rent from a shop or a house; the incidence you talk of is the tenant's taxes?—Yes, the tenant's taxes are really the most important; the proportions of local rates, as between landlord and tenant in Edinburgh, are somewhere about as 20 to 5 per cent. The tenant pays 20 per cent., and the landlord 5 per cent., or thereabouts.

1844. What rates are laid solely on the tenants?—The police or road assessment, and several other of the minor assessments.

1845. Taking the rents of tenants' occupation as the criterion of assessment, it is as a sort of approximation to his wealth and ability to pay?—Well, it may be taken so.

1846. Did you hear to-day the evidence of the gentleman from Kilmarnock as to the classification?—Yes, I did, as to the compromise between the means and substance and the rental system of rating.

1847. What do you think of that?—Well, I think to shift the burden from house property to shop, which this would do to some extent, is quite in the wrong direction. Taking the question as affecting Edinburgh, I know many men paying 300 *l.* and 400 *l.* for shops whose incomes do not amount, some of them, to 200 *l.* or 300 *l.* a year.

1848. You hold a shop is as little a test of a man's worth as a farm?—It is his farm, and those men just now have to pay all the local rates according to those rents.

1849. Do you not think some classification, such as at Kilmarnock, in itself, apart from any change of valuation, would be a right thing?—A classification of rates, I think, might be a very fair thing, but I do not see how it could be done; a classification of rents or of subjects. I should say, if there is any change in the incidence, it ought to be in the opposite direction of being in favour of the houses.

1850. To throw more upon the occupants of houses and less on the occupants of shops?—Yes.

1851. Mr. *Mackie.*] What do you mean by classification of rates?—I mean this Kilmarnock case was a classification of rates. They charged so much per pound of assessment on the one class, and so much on the other. They did not classify the rents; they classified the rates. For instance, they might charge 6 *d.* a pound on houses, and 4 *d.* a pound on shops. Speaking of the incidence of assessment, as between shops and houses, perhaps the Committee would allow me to quote an authority on that subject. I refer to the late Sir George Lewis, who had evidently given the subject of rating a very great amount of consideration; in the evidence which he gave before my Lord Portman's Committee in 1850, this passage occurs: "With reference to the occupiers of dwelling-houses I would say there is no class of persons, if I had to make the law, whom I should be so unwilling to relieve as that class. I believe the Scotch Board of Supervision have decided very justly to put the highest amount of rating upon the occupiers of dwelling-houses, upon the assumption that the income of the occupier of a dwelling-house bears a larger proportion to his rateable value than the income of any other class. I confess I should be very much disposed to agree with them, and if any alteration were made with reference to the law of rating, there is no class of persons who appear to me less to deserve consideration. I would ask what equity would there be in relieving the occupiers of houses in Grosvenor-square at the expense of tradesmen in Bond-street, or what equity would there be in relieving the occupiers of the great Clubs in St. James's street, or the occupiers of houses in St. James's-square, at the expense of the tradesmen in Piccadilly or Pall Mall? I can hardly conceive any shifting of burdens which would have less to recommend it in the way of equity."

1852. *Chairman.*] That is applicable to rates on occupants?—Sir George, at that time, was giving evidence with reference to the question of incidence of taxation, and the question arose as between houses and shops, when this opinion was expressed.

1853. As to the tenants of houses and shops?—Yes, clearly.

1854. The Hon. *E. P. Bouverie.*] You are aware that in England the rates are imposed on the tenant entirely; upon the occupier?—Yes; in consequence of the system of letting, they are as much owners as occupiers in England generally; the leases are so long.

1855. *Chairman.*] To some extent, Government assessors are employed in Scotland; do you approve of that system, or do you prefer the way in which you yourself are appointed?—Well, I think that the employment of Government assessors, I mean their compulsory employment, would be a very unpopular measure. The amendment giving the option was passed in 1857, and the inducement held out was the saving of expense to the local authorities. Well, I find in these eight years only 16 out of the 33 counties, and 18 out of the 80 burghs have adopted the Government assessors.

1856. You infer from that, that it is not popular?—I think that is very conclusive evidence that any attempt to make it compulsory would be unpopular.

1857. Have you a list of these burghs?—I have a list, showing the rentals. The rental of the burghs that have accepted Government assessors is 535,425 *l.*, while the rental of the 62 burghs that have not accepted Government assessors is 3,830,398 *l.*; in the counties again, the accepted and unaccepted, are just about equal, between four and five millions each.

1858. Do you see any objection to giving the same appeal to the Lords Ordinary, allowed in the case of the assessor selected by the Government, in that of assessor selected by the counties?—Personally I would have very little occasion to object to that appeal, because if it were made universal, I think it would be a considerable source of employment to me, because in litigation in regard to valuation, the employment of professional valuers is of course required. I have always been against that appeal; I do not think it is a fair thing; I have no personal objection to it, but I do not think it is a fair thing to the ratepayers. For instance, suppose a case like this: in the north of Scotland, a Government assessor has made an assessment, and has had a discussion before the Commissioners of Supply, in the county where the property is situate; he gets a decision against him, and then the assessor has the power of dragging the ratepayer up to Edinburgh before the Lord Ordinary. I mean if that ratepayer wishes to look after his case, he must either go himself or employ an agent; I think there is considerable hardship there.

1859. On the other hand, how would the Act have been carried out without some decisions that have been pronounced?—I really do not think these decisions are very satisfactory; I find they are very conflicting. I think they are just about as conflicting as the decisions of the Commissioners of Supply.

1860. Sir *Graham Montgomery.*] Would you recommend an appeal from the Lord Ordinary to the higher divisions of the court?—That is making more litigation; so far as I have been able to see, I think there is justice done in the Appeal Courts, composed of the Commissioners of Supply in counties, and of the magistrates in burghs.

1861. *Chairman.*] Would there not be a great diversity of practice in different counties?—I think no more than at present in regard to the decisions of Lords Ordinary, so far as these go.

1862. When the assessors act, do they not adopt the judgments of the Court in the interpretation of the Statute?—No, they cannot very well; because the judgments vary. It depends very much upon the Lord Ordinary. I heard a case referred to to-day, I have heard of it before, where, by the mere accident of one Lord Ordinary succeeding another in the course of a few days, an entirely different decision was given.

1863. But there was no conflict of judgments, as judgment had not been given?—The expected judgment, almost announced privately, was the one way, and the ultimate judgment was the very opposite.

1864. There is a possibility that, if there had been a previous judgment, he would not have overset it, though he did not feel bound to follow a mere opinion?—I had a case myself with one of the judges, which I followed one year, with reference to including all those refreshment rooms and other things about stations. The Lord Ordinary one year decided that they ought not to be included in the railway assessor's valuation, and the next year he decided exactly the opposite; and there is a case, I believe, will very likely come to the House of Lords in consequence of that.

1865. Do you think there is also a political objection to Government assessors being employed?—Yes; I think in the larger burghs the incidental objection to putting the register of voters in the hands of the Government would be a very serious one. I mean doing it compulsorily. I think that would create considerable annoyance in the country; it does not seem to me to be a very convenient thing

1866. Mr. *Mackie.*] With regard to this Government valuator, as I understand, the case was this: there is a Government valuator for the purpose of income and property tax in every burgh and county in Scotland at present?—There is.

1867. Do you object to his valuation for county rates and parochial rates?—In Edinburgh we have not a trained valuator in the establishment; they could not do it, and at present they do not do it; they do not attempt to value property in Edinburgh; they apply to the ratepayers and get my valuation, and adopt it; they do not require to be trained valuators; and, besides, they have not even the benefit of local knowledge; all the men in Edinburgh have been brought just youths from the country, with no pretence to training.

1868. In point of fact, this Government valuator does exist in every county?—You have a system of valuation, certainly, but to take the present system to Edinburgh would create tremendous confusion.

1869. But if it is good enough to ascertain the value of property for the income and property tax, might it not be good enough to ascertain the value of the property for county rates?—No; there is a very great distinction between the two; if I am carrying on the business of a brewer, for instance, it is a matter of no consequence to the Government whether they get it under Schedule A or Schedule D, whichever it is; if they do not get it the one way they get it the other; whatever is charged upon me as under the property tax is not charged in the income tax, so that it makes but very little difference.

Jovis, 4° die Maii, 1865.

MEMBERS PRESENT:

Mr. Adam.
Major Cumming Bruce.
Lord George Cavendish.
Mr. Dalglish.
Mr. Dunlop.
Sir James Fergusson.
Mr. Leslie.
Mr. Mackie.
Sir John Ogilvy.
Col. Douglas Pennant.
Mr. Smollett.

ALEXANDER MURRAY DUNLOP, Esq., in the Chair.

Mr. Robert Paterson, called in; and further Examined.

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1870. *Chairman.*] There is something you wish to add that we did not obtain from you last day?—Yes, the first thing I have to mention is a request that has been made that I should correct some of the deductions that I gave on the last occasion. I have been requested, by the representatives of the railway interest, to state, that in the parish of North Leith the railways get a deduction of 30 per cent., the ordinary deduction being 10 per cent. In Liberton I said that no deductions were given. That is the case with ordinary property, but the railways get 25 per cent. Then in Duddingston I said the deduction was 16¾ per cent. That is correct with reference to the ordinary property, but the railway deduction there is 40 per cent. Then, as to the assessments within the borough of Edinburgh, there is a peculiarity with reference to the road assessment. Under the private Act obtained by the Edinburgh Road Trust, the railway companies succeeded in getting entire exemption. That was a private arrangement.

1871. Exemption of the line, I believe, not of the stations?—Just so.

1872. Is there anything further you wish to state?—Then, with reference to my evidence on Thursday last, I wish to state the following considerations affecting the proposal to employ the Government assessors, namely that the Property and Income Tax is not necessarily a permanent impost; that the poor rates and other rates locally assessed are held to be the bases, or at least the minimum measure of liability for the Property Tax. Then, further, there is not a new valuation made annually for Property Tax; it is usually a three-yearly valuation, which, of course would not suit local rates at all. Then with reference to the extension of the system of appeals to the Lord Ordinary, I wish to say that there has been no case of valuation before a Lord Ordinary, and it seems to me difficult to conceive how, in a question of valuation, you could expect a Lord Ordinary to give a decision without hearing evidence.

1873. Does the Valuation Act include all classes of questions in the appeal?—No, the Valuation Act does not. The appeal, in the Amendment Act, seems to me only to refer to questions of law; but to be an appeal at all, as I stated to the Committee before, it should be upon all questions.

1874. The question asked was, whether it would be desirable to extend the right of appeal which now exists in the case of Government assessors to the case of assessors appointed by the counties; value is not included in the appeal at present?—It is a question whether it is included; the words are rather ambiguous; but, as I understood the gentlemen who proposed the extension of that appeal system, they want it to apply to the whole question of value.

1875. In your view, the Judges would not be suitable parties to decide questions of value?—They get an abstract statement of a case which may be quite sufficient to enable Lords Ordinary to determine questions of principle, but to imagine that such an abstract statement would enable them to settle a question of the measure of value, seems to me perfectly out of the question. I do not see how they could do it. They would require to hear evidence, and then my objection to the extension of the system comes in, because then the expense of the litigation would be very serious.

1876. Your objection would go to limit the appeal in the case of Government assessors also to questions of law?—I think so. I do not object to giving the ratepayer the power of appeal. If the ratepayer chooses to appeal against a decision, I would give him that power; but I would not give it to the assessor, because I think there the hardship might be very serious.

1877. Mr. *Leslie.*] What is the nature of the appeal, if it is not one of value?—It seems to be this: whether a property, or a portion of a property shall be assessed at all. Those are the sort of questions that have been appealed to the Lords Ordinary.

1878. I have seen myself many cases referred to the Lord Ordinary, especially upon the question of value?—I have the decisions here of all the cases that have ever been appealed under this Act, and I do not find anything of that sort. I think they are all questions of principle.

1879. Three years ago, in the county of Aberdeen, we had two appeals; I think it was in 1862?—The cases here are, "rent by lease," "fair annual value," "grassum consideration;" there is a question of principle there. Of course it enters into the question of value, but it does not determine it.

1880. That is just it?—What I mean is this. Suppose

Suppose my mill has been valued at 550 *l.*, I say it ought only to be 450 *l.* There has been no such question as that; it is this rather: shall this grassum enter into the valuation, or shall it not? that is the sort of thing.

1881. It is a matter of principle, but still value is a question?—It affects the value ultimately. I mean to say it is not a fair question of the measure of value, and there has been no such case. Then another question I wish to submit to the Committee is with reference to the interpretation by Lords Ordinary of the rule of value as to grass lands, improved lands specially let out for pasturage, and even old pasturage. It has been held by the decisions of 1858, Cases No. 10, 11, and 12, that such parks must be taken at their yearly value, as ordinary agricultural subjects.

1882. *Chairman.*] At their yearly value?—Yes, as if they were tilled, leaving out of view the question of improvement by laying them down for parks. I merely wish to say this: that while that may be fair enough in regard to parks surrounding a gentleman's mansion-house, it would be a very unfair thing with reference to parks surrounding a large city like Edinburgh. We have there large parks laid out, used by fleshers (butchers); those parks let at somewhere about 12 *l.* an acre; whereas, if they had been tilled, they would not bring above 5 *l.* It is old pasture, and very valuable for that purpose.

1883. Are you quite certain that the rule adopted by the Court was not simply this, and no more: that the roup roll, according to which parks were let (the gross rent which was given) is not to be taken as a rent, but it is to be subjected to an estimated value as if the lands were unlet; it does not seem to go further than that?—I am quite satisfied myself that the roup roll ought not to be taken; that is to say, that the gross rent obtained by the roup roll would be most unfair; because the owner of such parks usually applies lime and other stimulants to the grass, and keeps the parks fenced at great expense. Those expenses should all be deducted; I have no doubt about that. Will you allow me to refer to the decision that I quoted?

1884. Mr. *Mackie.*] Is that the case of *Allan* v. *Maitland?*—It is. I quote the abstract of the case: "The appellant is proprietor of the farms, part of which he has laid down in grass, and the other part is in a course of cropping and cultivation, with a view to be brought into grass. The appellant stated, that he was at great expense in raising fine crops of grass, and in consequence he got a high price for the grazings for the season. When the grazings are let he is also at the expense of taking charge of the stock and repairing fences. The expense of weeding and repairing ditches was also an annual charge. The appellant let the season's grazings on the greater part of the grass land of his farms this year; and the assessor intends to charge under the entry 'land let for less than a year,' the actual rent got as the value of that part of the land; and he has also charged under the entry, 'part of the farms in proprietor's possession,' the value of the portion of the land which, by rotation was under crop. The Commissioners found, by a majority, that the grass lands let for less than a year should be held to be in the occupation of the proprietor, and that the value of such should be the rent at which, one year with another, they might reasonably be expected to bring, if let for ordinary agricultural purposes."

1885. *Chairman.*] That is not in their natural state?—"Let for ordinary agricultural purposes;" that is, for tillage. Then there is another case, No. 12, of the same year, "similar to No. 10, with the exception that the lands were laid down at considerable expense, and are maintained at considerable expense, apparently not by being broken up and cropped, and laid down again in grass, but by top-dressing at intervals of years, greater or less." So that there the case of old pasturage is brought in. In both these cases it is held, as I said, that the valuation should be as if the land had been let for tillage. If that rule were applied to these parks surrounding Edinburgh and other large cities, it would reduce the value to less than half the actual rent paid.

1886. What you read was the argument of the party, not the reasons of the Judges?—The Judges give no reasons. They say "Commissioners right," or "Commissioners wrong;" that is all.

1887. Substantially what they find is, that the valuation is to be made by an estimate of what it would be fairly likely to bring if it was let for ordinary agricultural purposes?—My complaint is, that the estimate is not to be at what they might fairly be expected to bring as parks; but it is what they might be fairly expected to bring if let for ordinary agricultural purposes.

1888. For any purpose that a man chooses to put them to?—Yes; the interpretation of "ordinary agricultural purposes," means the regular rotation of crops.

1889. I doubt if it be limited to tillage and does not include grazing; but, otherwise, you think the judgment is right in substantially allowing the proprietor, under those circumstances, to have a deduction upon the expenditure?—That I am quite clear about, because that is an expense that he is bound to be at in order to get the rent. It is just like sowing seed; I do not think it is fair to charge that at all.

1890. Mr. *Mackie.*] Are not the words used by the Commissioners, in the case of *Allen* v. *Maitland*, a quotation from the Act of Parliament itself?—No.

1891. I think you will find it is so?—There is no such clause in the Act. There is no quotation here at all.

1892. *Chairman.*] Have you a copy of the Valuation Act; will you look to see if these are not the words?—The words are not quoted.

1893. I mean to say, if they are not the same words that are used in the Act of Parliament?—I do not think so. I am almost sure there is nothing in the Act about that.

1894. Mr. *Mackie.*] I am almost sure they are?—I think if there had been any speciality in the Act about that I should have known it.

1895. *Chairman.*] Not with reference to grass parks, but with reference to all property whatever; the General Assessing Clause?—The General Assessing Clause is the 6th, I think.

1896. Or rather, I should say, the General Estimating Clause for lands not let?—Yes; I beg your pardon, you are quite right. "In estimating the yearly value of lands and heritages under this Act, the same shall be taken to be the rent at which, one year with another, such lands and heritages might in their actual state be reasonably expected to let from year to year,

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year, and where such lands and heritages consist of woods, copse, or underwood, the yearly value of the same shall be taken to be the rent at which such lands and heritages might in their natural state be reasonably expected to let from year to year as pasture or grazing lands." You observe the exception is not in favour of pasture or grazing lands, but it is in favour of woods, copse, or underwood."

1897. That is to say, the land under wood shall not be rated higher than if it were in its natural state?—It is not to be rated higher than if it had been pasture or grazing land, that is the measure.

1898. If it had been left in its natural condition, and unplanted?—That does not apply to pasture or grazing lands; the exception is not in favour of them; it applies only to "woods, copse, or underwood."

1899. Grazing lands are to be valued at their value in their actual state, and woodlands as if in their natural state; grass lands and everything else are to be valued in their actual state?—This decision takes the opposite view of that, and says they shall not be valued in their actual state, but in the state that they had been in before.

Chairman.] I think you are putting a strain upon the decision.

1900. Mr. *Mackie.*] Are you aware that these grass lands which the proprietor keeps in his own hands may be re-valued year after year; that the assessor claims a right to value this land year after year?—Yes, I understand that all lands are valued.

1901. So that you would get the value in 1865, if it was different from what the value had been in 1864?—Yes, certainly. Then I have also to state, in addition to my evidence given formerly, that there are a great many extra statutory duties performed in the local offices in the larger cities which could not be conveniently performed by Government officers. In my own office I prepare the books for nearly all the local rates. I make up what is called the charge upon the collector.

1902. *Chairman.*] Is that part of your statutory duty?—No, it is extra statutory duty; but it is of great importance to the local boards in a city like Edinburgh. In Glasgow the same thing is done; they get the charge made up against the collector by an independent officer.

1903. It is a convenience to the boards that the party holding that office should be able to perform those duties?—Yes, it is made by special arrangement a part of the duty of the office.

1904. Do the parties who appoint stipulate that you shall perform that duty without additional remuneration?—It is included in the remuneration. Then I have to make the following suggestions for improvement on the present Valuation Act: That the assessable value of railways ought to be fixed by a central authority, instead of being left for arrangement between the railway companies in each parish as at present. The railways ought to be treated in the same way as gas and water works and other subjects combining the use of machinery, namely, that deduction should be made in estimating the annual value for repairs on rails, chairs, and sleepers; also for stationary engines, and other fixed machinery, but no deduction ought to be allowed for repairs of buildings and other structural works. That the apportionment of the gross valuation of railways, as I have already stated, should be upon trunk lines and branches, according to the proportions of the revenue earned upon them respectively, instead of, as at present, apportioning upon all alike. That the stations of railways should be valued according to the value of other property in the localities in which they are situated. The railway assessor should be required, upon demand of any parish or other board interested in assessments, to furnish full details of his valuation, and of the principles upon which it has been made up and apportioned. This information has been hitherto refused, and such refusal effectually defeats the power of complaint given by the Act. There is a power of complaint against a valuation being too low by other parties interested in the rates. I have also to suggest an interpretation of the 6th section of the Act, with the view of settling the question which has given rise to much dispute ever since the Act came into operation. That question being, whether changes effected on property by tenants during the currency of a lease ought to be taken into account in fixing the valuation. It is contended by some that the words "actual state" imply that the estimate is to be made of the value of the property as it stands when the survey is made; that if the property let by the proprietor consisted merely of a piece of ground, while at the time of valuation it was found that a house had been erected on the ground by the tenant, the condition of the subject let had been so altered as that the rent which had been conditioned as the fair annual value of the mere ground could not be held as fairly measuring the value of the property in its then actual state. Others hold, that no matter what changes have taken place in the condition of the property, the rent fixed by the lease must be taken, and all additions and improvements, however much they may change the actual value of the subject must be ignored. The first view is acted on in Edinburgh and Glasgow; in the case of the former city, under the advice of the present Solicitor-General for Scotland, in an opinion delivered by that learned gentleman upon the appeal made on behalf of the Governor of Heriot's Hospital in 1856. I submit a copy of the demand made by the appellants in that case, as illustrative of the inequity which would result from the adoption of the latter view.

1905. This was an appeal from a valuation of yours?—An appeal from a valuation of mine. I shall just read some of the items, to show the effect of the demand. Heriot's Hospital let to a party a piece of ground for 18*l.* 9*s.* 4*d.* ground rent. Those parties erected a manufactory on it, and the valuation was made as including the manufactory at 70*l.* They appealed to have the entry reduced to 18*l.* 9*s.* 4*d.* The factory would, in that case, have been thrown out of the valuation altogether. The difference there is 51*l.* 10*s.* 8*d.* That is an illustration. (*The document was handed in.*—See *Appendix.*)

1906. What is now the mode on which it is settled?—We are acting in Edinburgh and Glasgow on the principle of including these things.

1907. Mr. *Leslie.*] Of including the buildings?—Of including the buildings. There are a great many precisely similar cases in Edinburgh, and the exclusion of that sort of property would be a very serious thing.

1908. Mr. *Smollett.*] I thought you said that objections had been taken to that valuation of yours?—Yes, I had an appeal by Heriot's Hospital

pital against the whole of the valuation of their property, and involving that question. The magistrates of Edinburgh consulted the now Solicitor-General, and he advised them to include those buildings. But I wish to call attention to the other view now of the same case, as brought before the Lords Ordinary, where an adverse decision was given.

1909. Mr. *Adam.*] Is it only in Edinburgh and Glasgow that that principle is adopted?—I believe it is adopted elsewhere too, but there is a considerable diversity of practice.

1910. Major *Cumming Bruce.*] That applied to the case of a manufactory?—Yes; there are numerous cases of all sorts of property.

1911. In the case of an agricultural farm where a better house is erected for the tenant, but no further rent paid to the landlord till the expiry of the lease, should you consider it fair that that addition, the apparent value of the better house, should justly be included in the valuation as against the proprietor?—I do not think the incidence of the taxation should come ultimately to the proprietor at all. I think the party creating what is legally called the irritancy ought to be made ultimately liable for the difference of rate. I do not think it should fall upon the proprietor. The latter view, that is, of leaving out those, is supported by the decision of two Lords Ordinary in an appeal at the instance of Lord Lovat in 1860. The statement of the case is as follows: "Lord Lovat let a croft of land for 19 years, at the rent of 8*l.* 10*s.*, which was the full annual value at the time. The crofter had since erected a house on the croft at his own expense, one end of which he occupies as a dwelling-house, and the other as a carpenter's workshop, and a shop for the retail of petty groceries. There was no house on the croft at the time of entry under the lease. The assessor entered Lord Lovat as proprietor of the croft and house at the value of 14*l.* 10*s.* The Commissioners held that 8*l.* 10*s.* was the rent or value of the subjects in terms of the Act." The Lords Ordinary decided that that view was right.

1912. *Chairman.*] According to the view you stated just now, you concur in that, as the question there was only as to the landlord's valuation; you think the landlord at all events should not have been rated?—He must be rated in the first instance; but the opinion of the Solicitor General went this length, that at common law the proprietor had recourse against that tenant, and would be successful in an action of recovery.

1913. Will you put in the Solicitor-General's opinion?—I shall be very glad to put it in. I have it here.

1914. You are at liberty to do that?—Yes, it is a public document. (See *Appendix.*)

1915. What is the mode in which you propose that any amendment of the Acts should be framed?—Well, I would have the words "actual state" interpreted literally, that is to say, that the property should be valued as it stands at the time.

1916. At the time of valuation?—At the time of valuation, and that any difference of valuation made in consequence of change effected by the tenant ought to be charged as against him.

1917. Mr. *Leslie.*] As against the tenant?—As against the tenant.

1918. *Chairman.*] He would be deemed an owner *quoad* the difference during the lease?—Yes; I may just point out further, that it is difficult to foresee to what extent this anomaly might be carried, because, if the law admitted of it, it would be an easy thing for proprietors and tenants to make their arrangements so as to bring their property within such exemption. That, in cities, might be carried to a very great extent.

1919. Mr. *Leslie.*] And in agricultural subjects also?—It might be, but especially in cities.

1920. *Chairman.*] If it was part of the bargain, I presume the erection of the house would be taken into view as part of the rent?—If the landlord makes it a condition in the lease that the tenant is to erect, then there is no difficulty about it, but it does not seem to me to make any difference, so far as liability to taxation is concerned, how the property came into existence. If it is there, it ought to bear its share of the public burdens. It appears to me that no heritable property, or any amelioration affecting the value of heritable property, in whatever circumstances such may be created, ought to escape bearing its fair share of local taxation. There is also much difficulty on the question of subletting. A party taking a great quantity of property and breaking it up into small holdings, and getting a great difference of rent by that. The practice in Edinburgh is to enter the present occupier of the subject at the rent paid by him, whether that rent be greater or less than the rent paid by the principal tenant to the proprietor. Any other system would lead, especially in large cities, where the practice of subletting is somewhat general, to much inconvenience as well as injustice. To illustrate this, I submit the following cases: a party took premises at a rent of 710*l.* per annum. He sublet portions thereof at rents amounting to 440*l.*, the remainder being occupied by himself. The balance of the 710*l.* is 270*l.*; but this is so obviously less than the value of the premises occupied by him that it is set aside, and a valuation of 360*l.* substituted. Another rents premises at 20*l.* per annum, and sublets the whole at 34*l.* 12*s.* Another rents premises at 40*l.* per annum, and sublets at 82*l.* 3*s.* Another pays 7*l.* 10*s.*, and sublets at 18*l.* 4*s.* Another pays 12*l.*, and sublets at 26*l.* Another pays 14*l.*, and sublets at 27*l.* Another pays 30*l.*, and sublets at 68*l.* The sub-rents in such cases are taken also under the advice of the Solicitor General; but on this question there is also an adverse decision by the Lords Ordinary upon an appeal at the instance of Sir Archibald Islay Campbell, Baronet, in 1861. The following is a statement of that case: Certain minerals belonging to appellant are valued at 311*l.* 3*s.* They are let to Barclay on lease for 21 years at a rent of 200*l.*, and Barclay underlet them to Dixon & Co. for 311*l.* 3*s.* The Commissioners held the rent and not the sub-rent to be the criterion of yearly value, and restricted the valuation accordingly; and that the principal tenant ought to be taxed on the difference between the rent and sub-rent; but for this there was no provision in the Statute excepting in the case of leases of upwards of 31 years; and so in the case of leases of ordinary duration surplus rent actually paid is lost for assessable purposes, and the Lords Ordinary held that decision to be right, so that there the Commissioners, and the Lords Ordinary, while deciding against including surplus rent, are evidently so satisfied of the injustice of it

Mr. *R. Paterson.*

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that they add, that it ought to have been assessed, but could not be, because, in their opinion, there was no provision in the Statute for doing it.

1921. You think the provision in the Statute about long leases ought to be extended to all these?—You could not extend the actual provision about leases, because it goes further than the mere question of surplus rent. It directs that the tenant shall be entered as proprietor.

1922. What form would you propose so as to cover the rent?—Well, the schedule at the end of the Valuation Act, pointing out the form of the valuation roll, seems to have anticipated the question, because there you have three columns, owner, tenant, and occupier; so that if the occupier is a different person from the tenant, his name is entered in the column for occupier. Well, it might be provided that where the occupier was a sub-tenant, he should be entered at the rent he pays, providing, as in the case of ameliorations, that the taxation effeiring to that surplus rent ought to be paid by the principal tenant, or the party receiving such surplus rent.

1923. How would you make that out in any assessment roll: from whom would you levy the landlord's tax?—I do not think it would be necessary to make it appear in the roll in that way. I think the better and easier way would be to give a power of levying to the owner.

1924. A power of relief?—A special power of relief.

1925. He would have to pay according to the actual rent, although he did not receive it all, and then to enforce the relief for the difference against the intermediate tenant?—Yes, it is held, as I said, in the legal opinion that we got in Edinburgh, that he could do so at common law; but it is a pity that all that should be a question of common law if it can be adjusted by statute.

1926. Major *Cumming Bruce.*] Then you would propose that the whole rent paid by the occupying tenant should be charged against the proprietor who lets the lease, as he has a recovery by relief against the sub-tenant?—Not upon the sub-tenant but the principal tenant; his own tenant.

1927. But his own tenant only receives a certain smaller sum?—His own tenant receives the larger sum. His own tenant is the person receiving the surplus profit, and as the receiver of the surplus profit, I say, he ought to be charged with the taxes on that surplus profit.

1928. Would it not be more simple to charge that against the sub-tenant himself?—That is a matter of convenience with respect to poor rates; I do not know whether it is universal, but in Edinburgh the landlord's proportion is collected from the tenant and the tenant deducts it from his rent. Well, then, with us it would be a very simple matter, because the landlord would just allow him to deduct for his own rent, that is to say, for the rent he received himself.

1929. Mr. *Adam.*] Would you let these apply to leases of all durations, short as well as long; 31 years is the length provided in the Act?—I would have it apply to every case where property was changed, whether by alterations, additions, or by sub-letting. I would take the rent or value of the property as I find it occupied.

1930. Do you know why the line was drawn at 31 years in the Act?—No, I do not know the history of that question at all.

1931. *Chairman.*] There was one matter you stated in the former evidence, the much larger burdens that you thought were on the better class houses in Edinburgh compared with the inferior class houses; is not there another burden which makes a considerable difference in the same direction in Edinburgh; the larger feu duty in those parts of the town where the better houses are, as compared with the feu duty in those parts of the town where the houses are burgage?—It is not quite correct to say that it is a larger burden, because in the older parts of the city, where the property is held burgage, there is no feu duty at all. If I am asked to advise as to the market value of property, I must ascertain the feu duty, and I deduct from the price of the entire subject the market value of the feu duty.

1932. If it is for the purpose of purchase?—Yes; I mean to say this, that where there is no feu duty, the purchaser purchases the entire subject, the site as well as the building. Where there is a feu duty, then the purchaser does not purchase the whole subject, he purchases the house without the ground; he pays the feu duty or ground annual as the fixed yearly rent of the ground.

1933. That is to say, in estimating the value, the money which he has to pay, he takes into view this burden which he will afterwards have to pay year by year?—It is the rent of the land on which the house is built.

1934. In that rent of the land, is there not a very great difference between the different parts of the town; in the Old Town there is none at all, there it is burgage; in the extended royalty, down as far as Queen-street, it is comparatively low?—Yes; it is 2*l.* or 3*l.*; whereas, when you get to Moray-place, it is upwards of 30*l.* in some cases.

Mr. William Duncan, called in; and Examined.

Mr. *W. Duncan.*

1935. *Chairman.*] You are a Solicitor in the Supreme Courts, Edinburgh?—Yes, I am. On the present occasion, however, I attend the Committee as Clerk and Law Agent to the City of Edinburgh Road Trust, which offices I have held for many years. My chief object in attending the Committee is to represent the serious consequences that would ensue to the trust, were the roads assessment leviable by the trust to be levied on a reduced rental.

1936. What is the district included in that trust?—The district includes the whole roads and streets within the Parliamentary boundaries. The trust is constituted by an Act of Parliament passed in 1862, 25 Vict. c. 53, entituled, "The Edinburgh Roads and Streets Act." The 23rd section of the Act contains a definition of the district for assessment, for charges and superintendence, and for maintenance and repair.

1937. Does that correspond nearly with the Parliamentary boundaries?—Yes; it includes all the roads and streets, and all the lands and heritages within the Parliamentary boundaries, and a portion beyond that, extending into the county within the toll-bars; and it also includes a portion of the roads within the burgh of Leith. But I may

I may explain that the County Road Trustees maintain several miles of roadway within these boundaries, and that the Edinburgh Road Trust collects and pays over a certain amount of the roads assessment to the County Trusts, which is applied towards that maintenance.

1938. Then it is your duty to make up the assessment roll?—It is. We have an arrangement with the magistrates, whereby the burgh assessor prepares our assessment volumes, entering the rents of the properties and the names of the tenants. Thereafter my clerks enter the assessment after the rate is fixed by the trustees. The 52d section is the most important one as bearing upon the object of the inquiry of this Committee, and perhaps you will allow me to read it: "From and after the term of Whit Sunday, in the year 1862, the trustees shall and may, in place of the assessment in respect of the conversion of statute labour which was by the recited Acts authorised, assess and levy yearly from the tenants or occupiers of lands and heritages situated within the district, an assessment for the maintenance and repair of roads, and streets, and side pavements, which are or may be upheld by the trustees, not exceeding the sum of 5*d.* on each pound of the yearly rent or value of the said lands and heritages, as the said yearly rent or value shall appear in the valuation rolls of the burgh and county of Edinburgh, appointed to be made up under the Act of the 17th and 18th year of the reign of Her present Majesty, 'for the valuation of lands and heritages in Scotland;' which assessment shall be calculated from Whit Sunday to Whit Sunday, and shall be payable at Martinmas yearly, and shall be levied upon and paid by the persons liable, therefore at or after the term of Martinmas, notwithstanding any change during the year in the occupation of such lands or heritages, and no new or amended assessment shall be required to be made in consequence of any such changes in the occupation of such lands or heritages, provided always that for five years from and after the said term of Whit Sunday 1862 the rate of the said assessment shall be restricted to 4*d.* on each pound of the yearly rent or value aforesaid; and that during the said five years the tenants or occupiers of such of the said lands and heritages as, prior to the passing of this Act, were exempted, shall be entitled to an abatement of one-half from the said restricted rate of assessment." I may here explain that formerly the assessment was laid only upon dwelling-houses; but now it is laid on shops, warehouses, and lands and heritages generally; and it is the tenants or occupiers of the latter description of heritages, who receive for five years an abatement of one-half. The section then goes on thus: "And provided also that the tenants or occupiers of any lands or heritages, the yearly rent or value of which shall not amount to 5*l.*, shall be exempt, in respect of such lands or heritages, from payment of the said assessment; and provided further that the said assessment shall not be assessed and levied in respect of any building occupied exclusively for the purposes of public worship or public charity, or as an hospital, or of any building occupied by scientific or literary societies, or for the purposes of the fine arts, which shall have been or may be exempted from rates, in terms of an Act passed in the sixth and seventh year of the reign of Her present Majesty, intituled, 'An Act to Exempt County, Borough, Parochial, and other local Rates, Lands and Buildings occupied by Scientific or Literary Societies, or of the Royal Palace of Holyrood, or of houses or buildings in the Castle of Edinburgh, or of any buildings used as Government Offices,'" &c. And then follows a very important provison at the end of the section, to the effect that the assessment shall not be levied "in respect of any gas, or waterpipes, or underground works of any gas or water company, or in respect of those portions of any canal or railway which are not stations, basins, or buildings; or in any respect of any lands or heritages within the Parliamentary boundaries of the burgh of Leith."

1939. Then for the first five years I understand you are subject to a maximum of 4 *d.*, and thereafter to a maximum of 5*d.*?—Yes; and I may mention, in the first place, that, according to our practice, no deduction is made from the assessable yearly rent or value in respect of landlord's taxes or of repairs. Our assessment is imposed on the gross rental just as it is furnished to us by the assessor. The Act authorises no deduction, and none is given. In the next place, I would call attention to this fact, that the assessment is not levied from owners of property at all; it is entirely levied from tenants and occupiers; it is not a landlord's tax at all. Of course where a landlord is also occupier he is assessed, but that is in respect of his occupation, and not of his proprietorship.

1940. The exemption of certain properties mentioned is a permanent exemption?—The exemption of railway lines, and underground gas and water works, is a permanent exemption, and the railway and gas and water companies derive benefit from this, as I will show you. In the first year after the passing of the Act the assessor did not advert to that exemption, and he inserted the lines of railways, and the underground works of the gas and water companies in the valuation. This valuation showed a rental of 21,796 *l.*, applicable to the railways and waterworks. The companies appealed, and the Road Trustees at once rectified the error. The effect was to reduce the assessable rental by 13,446 *l.*, leaving as assessable only 8,350 *l.*; the assessment was reduced in proportion.

1941. But for that exemption they would have had to pay on 13,000 *l.* a year more?—Yes; and I may observe that but for the exemption, and the temporary abatement to which I have already referred, the assessment would have been 363 *l.*, and they have paid only 69 *l.* I put in an excerpt from the assessment books, in order to show the working of the exemption. (*See* Appendix.)

1942. Is your maximum rate necessary to provide the funds you require for the execution of the trust?—Yes; the Trustees have found it necessary to levy the maximum rate during the three years since the Act was passed, and all has been expended, and found to be insufficient. I may state that the Road Trustees, when the Act was obtained in 1862, foresaw that, and obtained powers to borrow a sum of 30,000 *l.* upon the credit of the assessment. We have borrowed 10,000 *l.* of that, and there is every probability that the other 20,000 *l.* must be borrowed in the course of a few years.

1943. Major *Cumming Bruce.*] How do you pay off that debt?—We pay it off under a provision in the Act, to this effect, "In order to discharge the money which may be so borrowed with interest,

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interest, the trustees shall, in each year from and after the date of each loan, make payment out of the proceeds of the assessment and duties herein authorised of 1-25th part of the principal and interest of such loan, until full payment of the same."

1944. Mr. *Leslie.*] Spreading it over 25 years?—Yes.

1945. Major *Cumming Bruce.*] That makes you increase the assessment?—We have no power to do so.

1946. Supposing your assessment does not enable you to pay off that loan, how will you manage?—The assessment will be sufficient, provided this Committee do not recommend a measure which will have the effect of diminishing our assessment. I may mention that, when Mr. Dunlop's Bill was introduced last Session, it was brought under the notice of the Road Trustees, and they were very much alarmed by the first and second sections, providing that assessors should make certain deductions from the yearly rent or value of lands and heritages, and should fix the balance or remainder as the rateable or assessable value, and that assessments should be levied upon such reduced value. It appeared to the Trustees that, if these sections passed into law, without some countervailing provisions, the finances of the trust would be thrown into a state of embarrassment. Before coming up I requested the treasurer of the trust to provide me with a statement showing what the effect would have been upon our assessment.

1947. Colonel *Douglas Pennant.*] You mean if it is limited to a certain rate in the pound?—Yes, seeing it is limited to a certain rate in the pound. I put in the statement prepared by the Treasurer. But I may shortly notice the results shewn. The actual rental assessed for the purposes of the trust, for the year 1862–63, was of dwelling-houses, 569,846 *l.*, producing, at 4 *d.* in the 1 *l.*, 9,497 *l.* 8 *s.* 8 *d.*; of shops and other heritages, 224,291 *l.*, producing, at 2 *d.* in the 1 *l.*, 1,869 *l.* 1 *s.* 10 *d.*; the total rental was 794,137 *l.*, producing 11,336 *l.* 10 *s.* 6 *d.* Well, assuming that the deduction for landlords' taxes, insurance and repairs to be, as stated by the burgh assessor, 19½ per cent. on dwelling-houses, and 9 per cent. upon shops, the effect of an abatement from the valuation roll to that extent would have been to reduce the assessable rental for the above year as follows: of dwelling-houses, 458,726 *l.*, producing, at 4 *d.* per 1 *l.*, 7,645 *l.* 8 *s.* 8 *d*; of shops and other heritages, 204,105 *l.*, producing, at 2 *d.* in the 1 *l.*, 1,700 *l.* 17 *s.* 6 *d.*; making a total rental of 662,831 *l.*, producing 9,346 *l.* 6 *s.* 2 *d.*, the difference being a diminution of annual assessment to the extent of 2,020 *l.* 4 *s.* 4 *d.* for that year. On a similar calculation on the rental of 1863-64, which had increased from 794,000 *l.* to 819,000 *l.*, the loss for that year would have been 2,097 *l.* In regard to the current year, which expires in a few days, the rental has gone up to 856,000 *l.*, and the loss would be 2,183 *l.* Assuming the increase of rental to go on for other two years in the same proportions, the treasurer estimates the rent in 1867–68 at 950,000 *l.* The restricted maximum will cease at that time, and the rate will become 5 *d.* in the 1 *l.*, and our assessment may rise to about 19,791 *l.* But assuming that the deductions contemplated in Mr. Dunlop's Bill were to be made, the amount would be 16,509 *l.*, so that every year after 1867 we should sustain a loss of 3,281 *l.* (*See* Appendix.)

1948. By making these deductions?—By making these deductions.

1949. Is your assessable value up to the full rental value?—The full value.

1950. The real full rental value?—Yes.

1951. *Chairman.*] It was anticipated that some rights would be affected injuriously by the Valuation Act; was there not a provision in it for giving an equivalent to the bodies or companies so affected?—Scarcely that. It was a provision to this effect: "Where, in any burgh or parish or county under any statute, any assessment, rate or tax of a fixed amount or per centage has been assessed upon or levied from the proprietors or tenants or occupiers of any lands and heritages, but according to a different valuation from that established by this Act, it shall be lawful for the sheriff, on an application from any person or persons authorised to assess or levy such assessment, rate or tax, or from any ratepayer within such county, burgh, or parish, to fix and determine, after such inquiry and notice as he shall think proper, what per centage, according to the valuation to be made under this Act, corresponds with and will yield as nearly as may be the sum which the per centage specified in such statute should yield, according to the valuation hitherto in use, to be made up under such statute, and the per centage so fixed by the sheriff shall hereafter, subject to all legal rights, be held to be the per centage provided by such statute;" 39th section. That was not to increase the rate, which would be the effect of the clause in Mr. Dunlop's Bill, but it was to find a sum of the same amount upon a different valuation. I believe that provision was taken advantage of in the case of Edinburgh in reference to the Annuity Tax, which used to be levied at a certain per-centage upon a valuation made up by stent masters, and in regard to which an application was made to the sheriff, who fixed the per centage to be levied upon the valuation made up under the Valuation Act, but the amount was the same.

1952. Colonel *Douglas Pennant.*] Under the powers of that clause, would you not be enabled to alter your rate, which is now limited to 4 *d.*, to something higher?—No, not under that clause, the Roads Act fixing a maximum, and the valuation on which the roads assessment is levied being the valuation made up under the Valuation Act.

1953. *Chairman.*] Are there any competing interests?—In the case of the Annuity Tax, there was no question of competing interests; but I am afraid there would be competing interests under such a measure as was before Parliament last Session. Unless very great care were taken I should be afraid of a transfer of a part of the burden of taxation from landlord to tenant.

1954. Not in your case, where the rate is all on occupiers?—Not in our case, as the roads assessment is leviable only from tenants or occupiers. I am speaking of the general case; but in any case there would be a transfer of the burden from one portion of the proprietors to another portion. I can see how tenants in certain cases could be saved. Supposing 10,000 *l.* were to be raised, the one-half from proprietors, and the other half from tenants, the rate might be the same in the case of the tenant, but the rate could never be the same in the case of the landlord. If, however, a tax were laid on landlords and tenants,

tenants, at one and the same rate, without previously fixing the gross amounts to be raised, then, as it appears to me, the tenant would be burdened exactly by the amount from which the landlord would be relieved.

1955. Taking the poor's rate, the law is that one-half of the cumulo sum shall be raised from proprietors and the other half from the tenants; no change could, by any arrangement in the valuation, ever diminish the amount rated on the landlords, and transfer it to the backs of the tenants?—Not in that case; it would not be transferred to the tenant, but it would be transferred from one portion of the proprietors to the other. It would be a competition amongst them. The sum which those who benefited by the deduction would not have to pay would have to be paid by the others. In other words, those landlords who get little deduction would have to pay on a larger rental, in order to make up for the reduced assessment payable by those who got large deductions. In many cases I think that would be unjust. Suppose a man to purchase a new house for 2,000 *l.*, and draw a rent of 100 *l.* for it. As the house was new, he would get no deduction for repairs for years, and would pay on his full rent, less landlord's burdens. Suppose, again, a man to purchase an old tenement for 1,000 *l.*, and, by letting it in parts, draw a rent of 100 *l.* for it. As the house was old, he would have to expend from 30 *l.* to 50 *l.* a year on repairs, and he would get deduction for such repairs in addition to landlord's burdens. That would not be fair to the first landlord; because, as he paid 1,000 *l.* more for his house, the interest on that sum, for which he gets no deduction, would be equal to the sum expended by the second on repairs. It would be burdening the owners of good property with a share of the taxes which should be borne by the owners of bad.

1956. But that is not so in your case?—It is not so in our case; and all we are anxious about here is that the Committee should make provision for the exemption from the operation of any measure that may be introduced into Parliament of such bodies as the Edinburgh Road Trust, whose assessments are levied from tenants or occupiers alone, or have or may reach their maximum rate. It would be a most undesirable thing to compel this road trust to come to Parliament for authority to increase the taxation. Any such proceeding would be most unpopular, and there would be no necessity for it if the present system of levying the assessment on the gross rental is not disturbed. I would humbly suggest to the Committee that they might consider whether, if they come to resolve on recommending a measure to amend the Valuation Act, the measure might not be confined to those exceptional cases where lands and heritages are assessed on one principle in one place and on another principle in another place, or where great hardship or injustice arises, instead of being made applicable to all rates, taxes, and assessments, the system now in operation under the Act giving, as I believe, general satisfaction.

1957. Mr. *Smollett.*] What would it cost you to come to Parliament?—It would cost a great deal of bad feeling in Edinburgh in the first place, a few thousand pounds to the trust in the next; and then we obtained our Act just three years ago.

1958. Mr. *Leslie.*] Is there not a great diversity of system at this moment existing?—Not in Edinburgh. The local boards in Edinburgh have made an arrangement with the magistrates, under which the assessor prepares the whole assessment volumes for them, and in that way the local assessments are levied on one and the same rental. The expenses of the office are allocated on the boards.

1959. Mr. *Dalglish.*] Is that a local Bill?—It is a local arrangement.

1960. Mr. *Leslie.*] And very general satisfaction prevails with the system in operation?—Yes.

1961. Colonel *Douglas Pennant.*] As regards Edinburgh?—Yes.

1962. Mr. *Mackie.*] Is it so throughout Scotland?—I have heard that it is so; and I have heard alarm expressed lest the Act, as a whole, should be interfered with. The opinion I have expressed, that it would be very desirable were the Committee to limit amendments to cases where there is great hardship, is one which, I believe, is held by many.

1963. Mr. *Dalglish.*] Do you employ the Government assessor?—No, we employ the burgh and county assessors, and they obtain information from the railway assessor, in so far as the railways are concerned.

1964. What is your opinion with reference to the employment of a Government surveyor compulsorily?—I am not quite sure how that would work, but I think there would be more confidence in a local surveyor.

1965. Major *Cumming Bruce.*] He would be supposed to know more of the actual circumstances of the property than any public surveyor?—I think so; and besides, holding his appointment from the local authorities of a county or a burgh, I think it likely that he would be more considerate in making up his valuation.

1966. Mr. *Dalglish.*] Do the local surveyors act differently from the Government surveyors?—I do not know. Their survey is more acceptable in some way, and I presume it is so for the reasons I have stated.

1967. Mr. *Leslie.*] That is to say, in Edinburgh you are satisfied; but in counties and towns that have adopted the Government surveyor they also are satisfied?—It may be so, but I do not know.

1968. Major *Cumming Bruce.*] The Government pay the expenses of the assessor where they put him, and the county is relieved from any expense?—I am not aware of the practice. When we applied for our Act we were about to ask the services of a Government surveyor. It was proposed to have a horse tax in aid of the assessment for the support of the streets, but Lord Redesdale was against that, and the proposal was abandoned. If it had passed, we would have required to avail ourselves of the services of a Government surveyor; but in that case we understood we would have had to pay for his trouble in assisting us.

1969. Sir *James Fergusson.*] The satisfaction you described as existing at present is consequent on the present system being acceptable to the majority; but there may be dissatisfaction existing among those classes who consider themselves unfairly taxed by the present system?—What class do you refer to?

1970. Such classes as would be granted deductions in respect of any peculiarities of their property?—I have not heard much of those peculiarities further than I have stated.

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1971. You are aware that railways, for example, complain of the unfairness of the present assessment?—I believe railways may, perhaps, have reason to complain; in some districts, as I am informed, they are dealt with very liberally, and in others they are not; and, therefore, if there is any mode in which railways could be treated fairly under one uniform system throughout the country, it would be desirable that it should be adopted.

1972. Supposing there is an amendment of the law by which they would be granted similar deductions to those which are universal in England on those descriptions of property, do you think the remaining classes in Scotland would have just cause to consider themselves injuriously affected by such a change?—I do not know that they would; I think there should be the same law for Scotland as for England.

1973. Mr. *Mackie.*] It is exceptional cases, I understand, you would treat exceptionally, and leave the present system alone?—That is my view. I think it would be a thing very much to be regretted if the present system generally were to be interfered with.

Mr. GEORGE REITH, called in; and Examined.

Mr. *G. Reith.*

1974. *Chairman.*] YOU are the General Manager of the Clyde Navigation Trust?—I am.

1975. That embraces the part of the river Clyde from Glasgow, a few miles downwards, does not it?—From Glasgow to Newark Castle, in the neighbourhood of Port Glasgow.

1976. The property mainly consists of wharves, quays, and sheds, alongside the river?—It consists of the river for 18 miles in length, with the quays and wharves at Glasgow.

1977. Is the river dealt with as a rateable subject?—The river and the waterway of the harbour have been found by the Courts in Scotland not to be rateable, but the quays, and the wharves, and sheds, are rateable subjects.

1978. On both sides of the river?—On both sides of the river.

1979. And how far down do they extend?—The river is divided into what they call three stages, for the purpose of apportioning the rates; the first stage beginning at Hutchison Town Bridge, the bridge at Glasgow, farthest up the river, and going down to within a short distance of Renfrew, 5 miles and 2 furlongs 163 yards; the second stage extending from the termination of the first down to a place called Dalmuir, the length of that stage being 3 miles, 1 furlong, 37 chains; (you observe the stages are unequal in length); the third stage, extending from Dalmuir down to Newark Castle, 9 miles, 7 furlongs, 3 yards.

1980. Is there any rateable property below Dalmuir?—At Bowling we have a harbour and quays.

1981. I thought that belonged to the Canal Company?—Part of it belongs to the Clyde Trustees.

1982. Then you pass through two or three parishes?—We pass through several parishes and three counties, Renfrew, Dumbarton, and Lanark.

1983. What is the great grievance to which you are subjected, to which you wish to call the attention of the Committee?—We feel that we are much in the position of companies who are authorised under the Valuation Act to obtain a valuation by the railway assessor. At present we are not so, because public trustees and commissioners are not recognised in the Act as gas companies and water companies are.

1984. The provision in the Act is not for certain classes of property, but for what may belong to companies or proprietors?—The words in the Act refer to water and gas companies; and it is competent for them, by applying to the sheriff to have their properties valued by the valuator appointed by Government for the valuation of railways and canals; but from some cause or other, very likely, I think, because it might not at that time have been held that public trusts were assessable, the public trusts have been left out, and although their property does extend into contiguous parishes and counties, the same privilege is not conferred upon them as upon gas and water companies.

1985. You wish your property to be subjected to the same rules of assessment as the property of a like kind, belonging to companies?—We do.

1986. I believe you have just now a question pending in the House of Lords as to whether you are rateable at all for parish rates?—We have an appeal under discussion at the Bar at the present moment, whereby the principle of assessment is discussed, whether public trusts are liable at all for poor assessments.

1987. If you succeed in being exempted, would that decision rule all county rates as well as parish rates?—I presume it would, to a great extent; therefore, that being so, we should not, perhaps, have occasion to trouble you in any new Act that might be brought up; but, as the law stands just now, as declared by the Court of Session, quays and docks are assessable. There is another grievance which we feel under the present interpretation of the law, and that is, that the Court have not defined in our case how those quays and wharves are to be valued; they simply say they are to be valued, and that whatever sum or rate the assessor can show to be derived from those quays and wharves, that is to be taken as the basis of valuation. In our case it is somewhat difficult: we say there is nothing can be shown, and the assessor does not attempt to show that anything is desirable from them; he simply deals with the whole rates collected in the river and harbour. There are tonnage rates upon vessels and tonnage rates upon goods, and the whole is taken together, and the assessor strikes off a certain amount which he, I suppose, calls rent of the river, and the balance, he says, is derived from the wharves and the quays.

1988. Are there special rates leviable for the use of your wharves and sheds?—No, sir; that is where the difficulty is. Then, with regard to the appeal to the magistrates which we have now in Glasgow, and the burghs, and to the Commissioners of Supply in the county, we do not consider these to be satisfactory tribunals. We had an appeal case to the county last year, heard at Hamilton in September or October where Lord Belhaven was Chairman, and his Lordship at that time expressed a decided opinion that this was not a case for such a court as theirs; that it was too intricate, and that the principles of accounting

counting were too complicated for that court, and that they felt they could do nothing but confirm the valuation.

1989. What provision do you suggest as a satisfactory mode of settling that matter?—If we were going into the accounts, I should point out what I think ought to be laid upon the quays. I do not know whether you wish me to do that.

1990. I mean what provision you suggest for settling them; some machinery for doing it?—All that I was proposing was simply to give us the same privilege of being assessed by the assessor of railways and canals as water companies and gas companies have, with an appeal to the Lord Ordinary as they have, leaving him to define the principles.

1991. Then you do not point at any thing being laid down in any statute for that purpose, but simply to give the authority to the railway assessor, with an appeal to the judges?—If I were to give an opinion, I should say at once that the dues upon the vessels are what seem to be intended as representing the rents from the quays and wharves.

1992. I was not asking you anything about what should be the fair value, but as to the machinery by which the value should be ascertained?—I was simply proposing we should be put in the same position as these other companies who have the privilege of calling in the railway assessor.

1993. Is there any question as to the amount of value involved in the case now before the House of Lords?—No, it is brought up incidentally, certainly, because there is an alternative plea, that if their Lordships confirm the decision of the Court below, they would remit it to them to determine the principles of the valuation, not to leave it to the assessor to say what value is to be put upon it as the rent of the quays, that they should arrive at some principle which should guide the whole parties in the matter.

1994. At what rental are you now assessed?—At about 36,000 *l.*; that is taken to be the whole value of the quays made up from the whole rental of the river and quays together, and then that is apportioned in the three parishes in Glasgow, the City parish, the Barony parish, and the Govan parish, according to the number of yards of quays or wharves in each of those parishes. Now it is just this which we consider a grievance, concentrating the whole value of the river and harbour, whatever it is, upon a short space.

1995. What is the total of the revenue of the trust?—£. 121,000.

1996. Colonel *Douglas Pennant.*] Is that the gross or the net?—The gross revenue.

1997. *Chairman.*] Have you anything further to state?—We have another reason for wishing to be under the valuator of railways, and that is that we do not think the magistrates in burghs, or the Commissioners of Supply in counties, are just the proper parties to constitute an Appeal Court for such cases. With regard to the deductions made by the parochial boards, we find it a very great grievance having to fight with each parochial board for the sum to be deducted under the 37th section of the Poor Law Act, one board taking one view of the deduction, and another board taking another view; and we feel we are altogether unfairly dealt by in being treated in the same mode as parties having a very different description of property. We incur a very large sum annually in dredging the river and harbour, and extra cost in maintaining the quays and wharves, and the allowances the parishes have been proposing to give us are not adequate.

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1998. What are the allowances?—Twenty per cent. in the City and Barony, and 12½ in the Govan. We have made special arrangements with some of these, reserving the rights of all parties; but that is what they allow. We have a suspension in the Court of Session for the Barony parish. We declined to pay the amount, and they poinded one of our dredging machines. We brought a suspension of the charge, and that case is now going on in the Court below, in which we show in the action that, in place of getting 20 or 25 per cent., we ought to have 75 per cent.

1999. That is your actual outlay?—We show we require this for that particular parish. The Lord Ordinary has remitted to an accountant to give a report. That has not yet been done. I merely mention that to show the discrepancy between their allowance and what we feel we are entitled to.

2000. You would wish that settled before you come into contact with the parishes at all?—I certainly would desire that the nett sum on which the parishes are to assess should be laid before them.

2001. And should appear on the roll?—Yes.

2002. Colonel *Douglas Pennant.*] In fact, that is assessed upon the gross revenue, without deductions, for the expense of maintaining the trust, except the 20 per cent.?—That is the present practice; the gross rental, and a reduction of 20 per cent. for expense of maintenance.

2003. *Chairman.*] Your actual expenses of maintenance are 70 per cent.?—We make it 75 per cent.

2004. Mr. *Dalglish.*] That includes interest?—Not interest, except interest on plant, it is apart from that; the dredging and renewing of the quay, wharves, and the expenses altogether. There is a very large expense annually incurred in that, without which the property would not long be useful, of course.

2005. You mean you expended 75 per cent. upon your gross revenue in improving the river?—Not the gross revenue. The mode of assessment is this: The assessor now just takes one-half the gross amount received from goods and from tonnage of vessels; he puts that aside, and says, "that is the rent of the harbour and river." Then he takes the other half, as the rent of the quays. He takes the dues on vessels and the dues on goods, and from these, as properly applicable to the river or harbour, there should be deducted one-sixth for each of the three stages of the river, or one-half in all. The whole of the sums under the head of Harbour Masters' Department; one-half of the sums under the head of Treasurer's Department, Engineer Department, and Miscellaneous; one-half of the sums under the head of Collector's Department, less the charges for weighing clerks and collectors at Bowling and Dumbarton; the whole of the sums under the heads of general expenses for gas, for lamps, repairs of pipes, lamp posts, &c., wages of lamplighters, contractors for cleaning and sweeping quays, and repairs of water butts, and winding and repairing clocks; uniform for harbour assistants, coal and gas for offices, &c., wages of office porter; one-half of the sums under the head of Contingent Expenses, except commission on loans, and expenses of deputation to France; one-half of the sums under the head of Law and Parliamentary expenses,

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poses, and the whole sums under the head of Police. With reference to the other revenues of the trustees, the Appeal Court instructed as follows: The net receipts from crane dues to be added; weighing dues to be struck out on both sides; the gross sums of storeage and transit sheds to be added; and a nett sum of 50 *l.* per annum to be added for water-pipes. I am speaking now upon the tonnage from vessels and the revenue from goods. There are various ferries in the harbour, but they are assessed separately, by themselves, and they are declared to be assessable also by the Court. The assessor does not necessarily allow anything for dredging or maintaining the quays, and all that; that is left to the parochial boards to deal with.

2006. *Chairman.*] And they think the percentage is enough?—That is so.

2007. The river, as I understand, they treat as not being a rateable subject; they deduct one-half of all your revenue as belonging to the river?—They deduct one-half. In explanation of what is said about one-sixth from each of the three stages, in the terms of the Act, rates are said to be chargeable one-sixth for the third stage coming up the river, one-sixth for the second stage, and two-thirds for the third stage.

2008. If a vessel stops at Bowling, it only pays one-sixth?—Only one-sixth, whereas, in coming up to the harbour, you pay the whole dues for the three stages. Therefore, taking off one-sixth of the whole revenue from each of the two lower stages is virtually taking off the whole applicable to these stages. Then, taking off one-sixth for the third stage makes one-half of the whole revenue of the river and harbour. They do not at all calculate upon the length of the parish, as the railway assessor does; nor, perhaps, is it altogether applicable to railway assessment, but still the division in the three parishes, when once you get the amount, is a thing which may be easily apportioned. At present, 36,000 *l.* is applied to the quays, whatever length they may be; there could be no more if the whole of the river had quays from end to end; and therefore it does seem to be without any principle to apply the whole rent, whatever it is, to a certain distance of quays.

2009. Mr. *Smollett.*] Is your revenue increasing every year?—It is.

2010. Colonel *Douglas Pennant.*] And you have no beneficial interest arising from this revenue?—None; all the money goes to pay the expenses and interest.

2011. Interest upon what?—Interest upon borrowed money; we have about 1,400,000 *l.* of borrowed money.

2012. There is no accumulation?—There is no accumulation. It is provided that, when the works are all completed, that then the debt is to be paid off, so much set aside yearly to pay off the debt; but our works are not nearly completed, and will not be for years. There is a surplus which amounted last year to about 25,000 *l.*; we had 121,000 *l.* gross revenue, and the expenses together were 99,000 *l.*, leaving 22,000 *l.* surplus. Dredging the river, new works, and extraordinary repairs came to 58,000 *l.*, showing that we expended 35,744 *l.* more than the whole sum we got in; of course the difference was by the addition of borrowed money.

2013. Is there any public audit of your accounts?—Oh, yes; it is all under Act of Parliament, and there is a public accountant appointed by the Sheriff to audit the accounts yearly, and an annual statement is published.

2014. *Chairman.*] Supposing you reached the happy state of your debt being paid off, what would become of the rates you are entitled to levy?—That is one of the arguments we use; if we reach that point, then there would be no more collected than would simply pay the current expenses, and so no rental for assessment.

2015. You are not entitled to keep up a rate for any ulterior object?—We are not.

2016. Mr. *Dalglish.*] Do you pay rates on the river in the parish of Kilpatrick or Dumbarton?—We have been charged rates for building churches, but there is no case except at Bowling. They have not yet made a charge, but they may.

Lunæ, 8° *die Maii*, 1865.

MEMBERS PRESENT:

Mr. Adam.	Sir James Fergusson.
Mr. Baxter.	Mr. William Leslie.
Mr. Blackburn.	Mr. Mackie.
Major Cumming Bruce.	Sir G. Montgomery.
Lord George Cavendish.	Sir John Ogilvy.
Mr. Dalglish.	Col. D. Pennant.
Mr. Dunlop.	Mr. Smollett.

ALEXANDER MURRAY DUNLOP, Esq., IN THE CHAIR.

WILLIAM GOLDEN LUMLEY, Esq., called in; and Examined.

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2017. Colonel *Douglas Pennant.*] YOU, I believe, are Secretary to the Poor Law Board?—I am one of the Assistant Secretaries.

2018. I believe you have under your charge what may be called the legal department of that office?—I have.

2019. Will you be kind enough to state to the Committee, according to the English law, the description of deduction which is allowed from the gross rental value of the different descriptions of property? — Taking all property together, deductions are allowed for the amount of repairs that would be necessary to keep the tenement, whatever it may be, in such a condition as will enable the property to realise the rent at which it is assessed. Having ascertained what is the proper rent to be paid for the premises by a tenant who would take them from year to year, then, according to the general principle, certain allowances must be made, in reference to the particular tenement, for the amount of money that shall be laid out annually to keep them in that state of repair, which would enable that amount of rent to continue to be paid. This is the general proposition with reference to all property.

2020. That you consider to be the rateable value after having made the deduction?—Yes. I leave out of consideration at the present moment the rates and taxes, because, whether they are to be accounted for by the tenant when he takes the premises and undertakes to pay them, or whether he takes the premises, the landlord undertaking to pay them, in either case the rates and taxes form an item which would be taken into consideration before the tenant undertakes to pay the specific rent; but, leaving that out of consideration, the other subject of deduction is the amount that should be allowed for repairs, and such other matters as occasionally occur, to enable the premises to bear the rent which has been calculated for them. With regard to land, of course, no very large amount is required to be deducted for the repairs. There will be fences and gates, and a few farm buildings. All that amounts to a comparatively small sum. But, in considering house property, of course, there is a very considerable amount that ought to be allowed, according to the nature, and state, and condition of the premises. Then, coming to manufactories or mills, or any class of property of that description, generally speaking, a larger amount is required, because in such property the depreciation is greater from year to year than in the ordinary occupation of dwelling-houses. But there is a class of property in which the rule is by no means so easy to apply because the nature of the occupation is so complicated that the courts of law have found great difficulty in ascertaining how to estimate the proper rateable value with reference to the deductions that ought to be made. Of course, the most difficult of all these subjects has been the railways. In fact, so difficult was the rating of the railways considered by the Court of Queen's Bench, that there is a memorable instance in which the Court being called upon to pronounce a judgment as to what ought to be allowed in the case of the rating of one of the railways, stated that they were utterly unable to do so. They postponed the judgment in hope that Parliament would in the meantime pass an Act to relieve them from the difficulty, and determine how railways ought to be rated. Of course, the Legislature declined entering upon that difficult subject, and the Court were obliged to give judgment in the ensuing term in the best way they could, and determine what should be the mode of rating the railway in that particular case.

2021. Was that in the case of the London and Brighton Railway?—I think it was; there have been several of them; I think that was the case.

2022. Is not it the case, that in the most recent decisions of the Courts, it has been held that, starting at the starting point, the gross rental value, it is competent to the valuers to claim, that that starting point shall be the revenue arising on that portion of the line in which the rate is to be made, and not upon the general mileage of the line of railway?—With regard to the mileage, the practice of rateing per mile over the whole of the line, or rateing the part in the particular parish, has been the subject of a good deal of discussion, because of the difficulties resulting from the adoption of either cause. If you take the whole of the line, a mileage calculation, it is the simplest mode, because you have nothing to do but apply an arithmetical rule; but, on the other hand, the principle of law undoubtedly is, that in every parish you ought to calculate

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calculate and ascertain the amount of the rateable value of the property therein, and therefore, in the case of a railway, you must endeavour to ascertain how much is actually earned in each particular parish. Looking into the accounts of the railway companies, it is exceedingly difficult for parish officers in many cases to find this out; they are entitled, and, on the other hand, the railway company can compel them to ascertain the precise sum that is earned in the particular parish. I have no doubt that is the strict rule of law, but, practically, I believe it is exceedingly difficult to work out. One of the latest decisions has been rather adverse to railway companies. A line which ran through a portion of country earned very little indeed, scarcely anything; and of itself was supposed to have no rateable value, as far as the railway company were concerned; nevertheless it was held to be rateable at a fair value, as a feeder to the main line; that is the case of the Cannock Chase Line. The Court held that, although there might be not much earned, or rather that the line might be worked at a loss in that particular parish, yet it was a useful line to the railway company; the Railway Company deemed it right to become the owners of that line, and were rateable, therefore, with reference to the value which it had as a feeder to the main line. With reference to the actual items of deduction, I have them all detailed in the little treatise, which I have published on parochial assessments, and it may be convenient that I should state to the Committee what they are. The first proposition is to ascertain the actual receipts of the whole line; you must find what the railway company have actually received from the occupation of the line, that is, from the running upon the line during a given period; take, for instance, a year. That can be ascertained, because there is a statute which compels railway companies to set forth every year an abstract of their accounts or balance sheet. That they are bound to do by virtue of the Statute 8 & 9 Vict. c. 20, s. 107, which requires: "That the Company shall every year cause an annual account in abstract to be prepared, showing the total receipts and expenditure of all funds levied by that Act, or the special Act for the year ending on the 31st day of December, or some other convenient day in each year, under the usual distinct heads of 'receipts and expenditure,' with a statement of the balance of such account, duly audited and certified by the directors, or some of them, and by the auditors, and shall, if required, transmit a copy of the said account, free of charge, to the overseers of the poor of the several parishes through which the railway shall pass, and also to the clerks of the peace of the counties through which the railway shall pass, on or before the 31st day of January then next, which last-mentioned account shall be open to the inspection of the public, at all reasonable hours, on payment of the sum of 1*s.* for every such inspection;" and the company is rendered liable to a penalty of 20 *l.* for every omission. That clause enables the overseers and any persons interested to see what have been the gross receipts and the gross expenditure of the railway company during the year. Then, out of that is to be ascertained the rateable value; and the courts of law have laid down, that the following deductions are proper to be made from those receipts: "a deduction of interest on the capital employed in engines, carriages, &c., by the company as carriers, and on the same capital for tenants' profits and profits of trade; of a per-centage for the depreciation of such stock beyond usual repairs and expenses; of a sum for the annual cost of conducting this business, that is, the carriers' business; of the separate value of land rated in other parishes; and of a sum for the cost of the ultimate fundamental renewal and reproduction of rails, chairs, sleepers," &c. These are the items which, together with the rates and taxes, have been allowed as deductions by the Court. They have refused to allow interest on the sum expended in procuring the Act under which the company are constituted, or in raising the capital or other original expenses, and they have refused to make any allowances for actual loss on branch lines. As regards the floating capital of a railway company, they have laid down that, whether any allowance is to be made in respect of interest or tenants' profits thereon, depends upon the question whether a greater outlay occurs in realising the returns than is ordinarily incidental to the employment of capital; rather a vague proposition and a vague resolution of the Court. Those I think are the heads of the deductions which have been allowed by the Court of Queen's Bench.

2023. *Chairman.*] Then, the residue of the gross is taken as the rateable value of the subject?—It is so; and, having ascertained the proper sums to be allowed in respect of all these different items, they are deducted from the gross receipts; and then is obtained what the Courts have held to be the nett rateable value.

2024. Colonel *Douglas Pennant.*] Does the same principle of deduction apply to other public companies, such as water companies or canal companies?—There are some items here which would not arise of course in regard to water companies. There are no carriages, of course, in the latter to be provided for.

2025. The same principle, I mean?—The same principle would apply. There must be reasonable deductions made in respect of the cost of maintaining the works, and the renewing of them from time to time. With regard to canals, an allowance ought to be made for the necessary cost of producing the supply of water to the canal.

2026. And in the case of mills and manufactories, there is also, is there not, a similar deduction, not to the same extent, for the purpose of meeting the renovation of the property?—Large deductions would be made, undoubtedly, for that class of property, because it rapidly deteriorates. As I think I mentioned before, the mills would very soon get out of order, unless they were carefully attended to, and of course the repairs are very considerable. With manufactories it is just the same. It is right to say there is a large amount of fixed machinery and engines used in manufactories, and in large engineering works, which are subject to the rate, whenever they are fixed, becoming, if not part of the freehold, at least part of the occupation; they are included in the subjects of the rateable value, and, as they are constantly liable to get out of repair, a considerable allowance is made for them.

2027. That is the law laid down; the fixed machinery becomes rateable with the premises to which they are attached, and moveable machinery is not rateable with them?—The distinction is this. The endeavour must be to ascertain whether or not the subject is something in the nature

nature of tools, or matters which are merely set in motion by the labourer. The fixed machinery, so far as it is at all attached to the building, forms part of the rateable value, but the gear, that which ceases to be permanently attached in any way, is mere furniture, and is not the subject of the rate.

2028. In respect to houses, is it the case that the deductions are allowed not only for actual repairs, but also for insurance?—It is so.

2029. Does that apply to other property?—Insurance is an allowance. It is impossible to say that insurance has anything to do with the rateable value of property, but it is an item which has been allowed by the Legislature. One cannot say that a house is more or less valuable because it is insured, in the sense of rateable value, but it is an allowance the Legislature have thought fit to give in laying down the rule for assessing property in the 6 & 7 Will. 4, c. 96.

2030. The liability to rating according to English law is entirely on the occupier, there is no portion of the rate levied from the owner?—Excepting in the cases of small tenements.

2031. And then it is levied from the owner in lieu of the occupier?—It is so; the property is valued as if in ordinary occupation, but the owner is liable to be rated at a certain reduction, or, if he is willing to compound, at a much lower deduction.

2032. *Chairman.*] It is a provision for securing payment?—Yes; it is not in a very satisfactory state in England, because the rule depends upon the will and pleasure of the particular parishes.

2033. Colonel *Douglas Pennant.*] These are the legal deductions allowable by law, but the amounts of deductions are left, are they not, according to the present law, to each union to settle and determine?—The practice has become so, according to the workings of the present assessment committees. The present assessment committees have been laying down rules, or, as they call them, scales of deductions which they will allow by way of general regulations, and apply them to every valuation list brought before them: but, strictly speaking, every tenement and every hereditament should be valued according to its own specific state and condition. The assessment committees are not justified in saying that, because upon one house they will strike off 20 per cent., therefore, as a matter of practice, they will strike off 20 per cent. from the next; but in practice they have, no doubt, laid down such rules, and applied them pretty strictly.

2034. These rules are meant to meet those local deductions which you have enumerated; whatever the amount of local deductions may be, the intention is that they should meet that local deduction?—That is quite so. They vary very much in different unions, and in different parts of the country; but, inasmuch as the same rule is applied to the whole of the parishes in a given union, there is no inequality or injustice necessarily worked out in that particular union. The scales of deductions are now varying in several unions, even in adjoining unions, but still, as far as the union is concerned, there is equal fairness.

2035. That applies solely to the poor rate; there is no liability beyond the union at present to the poor rate; but, in the case of a county rate, it is levied under a different authority; although the scale of the poor rate is adopted by the county generally, still it is not actually under the same authority, and is liable to a different rate if the county chooses to impose it?—I am afraid there has been a question about that. There has been some question raised. The Act of Parliament, termed the Union Assessment Committee Act, requires that the rates that are based upon the poor rate shall be valued according to the valuation list. Now that has been read as applying to the county rate. As I read and understand the Act of Parliament, that is perfectly true when the county rate comes to the parish, and when the overseers are to make a county rate. If they are to make a separate one, which they may do occasionally, they must follow the valuation list. But I do not read the Act as intending that the justices in quarter sessions are concluded in any way by these valuation lists. I believe, however, that there is some difference of opinion entertained as to how far they can depart from those valuation lists.

2036. *Chairman.*] What machinery is provided for the county rate?—Under the 15 & 16 Vict. c. 81, the scheme is this: that the justices in the county having determined to have a county rate may take the valuations upon which they have so far made their county rate, and abide by them, being satisfied that these are fair valuations for the parishes in the county, and proceed accordingly to distribute the county rate in those proportions. But there is a provision, that if they are dissatisfied with those valuations they may appoint what they call a committee of county justices, and these county justices then proceed in different parts of the county to prepare new valuations of the different parishes within their several divisions: then they report the results of their investigations to the quarter sessions, and there is made out what is called a basis, that is, a general valuation of the whole county according to the returns received from the different local divisions. That basis is then the subject of acquiescence on the part of the parishes, or the subject of appeal; and having been settled either by that acquiescence or upon the appeal, it becomes the groundwork upon which the justices are to make their county rate in future.

2037. When that question has come before the courts they have, I presume, sanctioned the same principle of deduction which you have mentioned as applicable to the poor rates?—It is probable it would be so; but the principle of valuing for county rates has not been brought before the courts of law.

2038. Colonel *Douglas Pennant.*] There have been but very few cases?—Very few cases.

2039. But still that principle has been acted upon in counties to a very large extent; committees are continually formed in the counties for the purpose of so resettling the county rate upon the advanced state of real rentable value?—Yes, there is a definition given in that Act of Parliament that they are in fact to make the county rate upon the same principle upon which the poor rate is made. The doubt at present is, whether the county justices are concluded by the result of these valuation lists made by the assessment committee.

2040. Under this recent Act?—Under this recent Act.

2041. *Chairman.*] Do those scales of deductions adopted by unions ever come before the Poor Law Board for approval?—No; the Poor Law Board have no control at all over the subject of rating; they had nothing at all to do with it farther than the original power of determining

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when the new system by Poulet Scrope's Act should come into operation.

2042. Colonel *Douglas Pennant.*] The parishes have the power of appeal from the decisions of the assessment committee, and that appeal can be carried before the justices in the usual way? —There is a very complete power of appeal now both from assessment committees to the sessions, and also the power of defending the valuation lists before the sessions.

2043. *Chairman.*] Can that be appealed further to the courts here?—It can, because the quarter sessions can refer matters to the Court of Queen's Bench, by granting cases for the consideration of the court, or the parties themselves may raise a point and bring it before the court. Very recently, in the course of this term, a very important question has been brought from Sunderland up to the Court of Common Pleas on a special case, with regard to the rating of small tenements and the mode of valuing them; that was done by the means of an appeal between the parish and the committee of guardians, and the case was stated between them.

2044. You mentioned, that the courts have sanctioned a deduction in the case of railways for renewals?—Yes.

2045. Is there a similar deduction sanctioned for the renewal of buildings, or is the insurance the only form in which the allowance for that can be made?—Yes, under the general term of repairs of buildings.

2046. That includes renewals?—That would include renewals so far as it would be necessary to bring the building up to the same state and condition in which it was when the rent was calculated.

2047. And in the same way it would include painting and papering, and that kind of repair, would it not; or is it merely repairs for maintaining the fabric?—It would take in that; but I believe, practically, there is very little allowance made for that. Very few parishes, and very few assessment committees will go into so minute an investigation as that. I believe the practice is entirely to disregard merely ornamental improvements that are not of a substantial character.

2048. What are the divisions into which property is generally divided with reference to these scales of deductions which you mentioned?—There is a Parliamentary Paper, which I unfortunately have not brought with me. It was laid on the table of the House at the end of last Session, in which the scales that had been allowed by the assessment committees throughout the different parts of the country were shown. They divided it in this way: land with or without buildings, houses, manufactories.

2049. Colonel *Douglas Pennant.*] Houses are also divided, are they not, into two classes; houses of a better description and houses, including cottages, of a lower description?—There are some; but I think when we came to ascertain the amount of allowance that had been made there were very few unions where they had made any material distinction.

2050. *Chairman.*] The classification is pretty uniform?—I think it is. There are also mills, manufactories and mines; an allowance for mines which are rateable.

2051. What is the distinction drawn there for mills and manufactories?—There were not a great number of unions where the mills were the subject of particular remark, and where they have been, there will be found an allowance even to the extent, I think, of 50 per cent.

2052. Colonel *Douglas Pennant.*] In mentioning mines, would it not be as well to remind the Committee that there are only certain descriptions of mines rateable?—Yes. All coal mines are rateable, and no other mines are rateable, except where the lord takes a portion of the ore.

2053. *Chairman.*] Are coal mines rateable by statute?—By statute. The statute of Elizabeth expressly mentions coal mines, and having mentioned coal mines, the courts say they exclude every other; but when the lord reserves any portion of the ore by way of payment, in that case by a singular construction of the courts of law, he is held to be an occupier of land, and not a miner. Consequently, as he occupies so much land by taking a portion of the ore, he is rateable to that extent. On the other hand, if he reserves a money rent, he is not liable, and the result is, there are very few cases in which the lord takes any ore.

2054. Colonel *Douglas Pennant.*] I believe it had that effect very soon?—Yes.

2055. Lord *George Cavendish.*] The landlord was rated for the land from which the royalty was made?—He was rated for the land from which the royalty came.

2056. Colonel *Douglas Pennant.*] And, in consequence, they very soon altered the mode of letting the mines?—I believe in Derbyshire it is still very much reserved; I am told there is a good deal of toll still taken there.

2057. *Chairman.*] Is there a tolerable uniformity, not in the actual amount of deduction allowed in different unions, but in the proportion between the deduction in the different classes of property?—Taking the different unions of the country, I believe there is a considerable variation in all respects. There is not quite so much as was expected, and this has arisen from what was a very beneficial action. When the assessment committees came first into operation, many of the chairmen, and vice-chairmen, and county magistrates met together, and in the particular counties, laid down certain rules for their guidance within their own county, and for the most part the committees have acted upon them; but, inasmuch as these were merely voluntary regulations, there was no power of compelling assessment committees to act upon them, and here and there they have refused to abide by them. There is a great uniformity in the counties; the counties differ *inter se* very much, but in the counties themselves the assessment committees are very nearly uniform.

2058. Does that Parliamentary Paper to which you refer include the county valuations, or only the poor-rate?—It shows nothing but the result of the valuation lists as settled by the assessment committees.

2059. Colonel *Douglas Pennant.*] In fact, there has been nothing compulsory on the county since the Act to which you allude, to make further assessments?—Not at all, for facilities are given by this and by the Amendment Act passed last year, which assist very much the county justices, inasmuch as they are put in possession of the valuation lists every year as they are settled. The annual reports of the guardians upon the valuation lists are coming in now to the Poor Law Board, and the variations are very considerable in many parts of the country.

2060. Lord *George Cavendish.*] Do they vary very

very much with regard to railways?—This cannot be discriminated, because the precise items of the rate are not set out; it is only the total sum of the valuation of the parish which is shown.

2061. *Chairman.*] We are anxious to know whether the system works harmoniously and pleasantly, or whether it creates a good deal of grumbling in the different classes of ratepayers? —Well, I think upon the whole, from the reports received, taking the large mass of work that is being done, and the number of bodies that are at work, that it does work well. I think it is acting beneficially. Of course there are a great number of persons who are dissatisfied. There are a great number of cases in which the assessments have been raised very considerably. I would not venture to say what the precise amount is; but it is a very large sum indeed in which the valuation has been raised by the assessment committees.

2062. Then, the complaints have been rather as to the raising of the assessment, than as to the apportionment of it acting unfairly; it is the increased amount that is found fault with?—It is the increased amount. In some cases individuals may not have been properly treated by the assessment committees, either from ignorance, bad intention, or other motives; but still, looking at the whole of the kingdom, it seems to be working very satisfactorily under this measure. It is one quite new in its application, and the assessment committees have a good deal of difficulty in ascertaining the rateable value of properties in this country.

2063. Colonel *Douglas Pennant.*] I suppose a certain amount of dissatisfaction would be a thing you must have expected, because it was the case under the former parochial system that in many parishes the pound was not a pound at all, and when it was stated as so much in the pound it was probably nearer 10 shillings?—Certainly. The ratepayers agreed among themselves, and among themselves probably the rate was quite fair, but it was very unfair when it became a question as between their parish and the next parish.

2064. Mr. *Leslie.*] You give that as your opinion with regard to the harmonious working of the system from the reports you have received and not from any practical knowledge of the working in any particular locality?—It has been from the reports received, and the communications that are made to the Poor Law Board, because that Board have no control over the assessment committees; but inasmuch as the Bill emanated mainly from the President of the Poor Law Board, and the Poor Law Board are in constant communication with the unions and with all parties interested in the matter, they hear a good deal from different quarters as to the mode in which it is working. They probably hear more complaints than any other body could do; because, if persons are at all grieved about anything, they write to the Poor Law Board, and there are, no doubt, a great number of persons dissatisfied. The subject of rating is full of difficulty, and there are a great number of anomalies, a great number of things that require to be settled on a better footing than at present, and therefore there are a great number of people aggrieved by the decisions of the committees.

2065. Colonel *Douglas Pennant.*] Can you tell the Committee what portion of the work has been done voluntarily by the union assessment committees, and how much has been done by paid valuers?—I cannot give the Committee that information, but I can refer them to a mode of ascertaining that pretty fairly, because there is a Parliamentary Paper laid before the House of Lords this Session on the motion of Lord St. Leonard's, and that paper sets out the whole expenditure that has been incurred by the committees, the various heads and items of expenditure, and, among the rest, what they have paid to valuers. I did make a rough calculation as to what the whole of these sums amounted to, and it seemed to me that, up to that time, the expenditure was somewhere about 80,000*l.* in the whole of England and Wales.

2066. That would include all expense?—All expense.

2067. Not merely the paid valuers?—All expenses, allowances to clerks, payments allowed by the assessment committees and paid by the boards of guardians, and certain items arising out of the appeals, but not much on that account.

2068. I suppose that you can fairly calculate that a very vast amount of this work has been done voluntarily, and at no expense at all to the unions?—Certainly.

2069. *Chairman.*] Have you the title of the paper to which you refer?—House of Lords Parliamentary Paper of the present session, Number 29, called "The Union Assessment Committee Act Return."

2070. Lord *George Cavendish.*] Have you no means of stating what per centage of deduction those several deductions on railways amount to? —No; they must vary very much on every particular railway, and upon the different parts of the railway, because it is clear there would be a great deal more traffic upon one part of the railway than on another; and therefore in that part of the railway there would be a greater consumption both of carriages, as far as the carriages are concerned, and of the line itself, whereas upon other parts the traffic might be very small comparatively, and the depreciation, of course, would be much less.

2071. Colonel *Douglas Pennant.*] Practically, it generally comes to a compromise between the parishes and the railway companies?—Yes, after a certain amount of litigation, and after the surveyors have had had as much on both sides as they can expect, it is arranged that the parish officers will take so much as is mutually agreed upon.

2072. Mr. *Blackburn.*] Have you any opinion yourself upon the justice of dividing the real value of the railway by mileage, or by taking the rating of such particular parish according to the traffic that passes through it?—The theoretical justice is to ascertain how much is earned in each parish. That is, how much of rateable value there is in each parish, and that can only be ascertained by finding out how much of each parish is used by the line and how much profit is made in the particular parish. Therefore, theoretically, that is the just course.

2073. Supposing the North Western passes for a mile through Harrow, but has no station there, and that the whole through traffic to London collected from an immense extent of district passes through that one mile; is it right that Harrow should claim for traffic that it does not originate, seeing that it would produce no traffic at all if the rest of the railway was cut off?—If that remark be applied to the whole of the line the railway would never be rated at all.

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2074. Supposing it was another description of manufactory; supposing a large manufacturing establishment on the border of two parishes, and the working department was in one parish and the counting house and warehouse for sale in the other parish, but that it was was all one building; do you think the building and manufactory should be rated as a whole, and each parish have a share, or do you think the one in which the work was done and paid nothing should get nothing, and the one in which the sales were made and the profit came, should get the whole? — No, it would not be fair that the rateable property which extends into two parishes should be wholly rated in one and not rated at all in the other. On the contrary, the law would require whatever process may be resorted to (I would not say what that may be), that it should be ascertained how much of rateable value is in the one parish and how much in the other.

2075. Would that not be by the area, and not by the fact, whether a profit was made in one parish, or in the other?—It must be the area, and the area would be the thing to go to if you had the means of ascertaining it.

2076. Is that not the case with the railway; ought it not to be rated as a whole, and divided according to the area in each parish?—I say the most convenient thing is to rate it as a whole. I admit the convenience of that rule, because there is no possible means of ascertaining distinctly how much value the railway derives from the occupation of the line in any particular parish; that cannot ascertain that unless it ascertained how much the railway has earned upon the whole of its line.

2077. Is it always the most just, that as the thing would not produce anything cut into sections, it should be rated as a whole, and divided according to its areas in the parishes through which it passes?—I do not know much about the justice. It is a question as to what can possibly be done in the way of ascertaining the rateable value.

2078. In Scotland, under this Valuation Act on which we are sitting, the whole is valued as a whole, and each parish gets allotted a share according to the mileage for the railway in that parish?—That is the principle I will venture to say that must be come to in England. I am quite willing to admit that that is for the most part the only practical mode of valuing it. I can hardly say anything as to its justice.

2079. Colonel *Douglas Pennant.*] Was it not generally the case that was acted upon until that decision in the Croydon dispute?—It used to be acted upon, and is very much acted upon.

2080. Till that decision at Croydon, which upset it; that was the practical way? — Yes; and it is very much practically resorted to at the present moment. The whole system has so ramified itself from what it was at the early starting of railway property and of railway rating, that a great number of questions arise in the rating of railways which embarrass the courts of law and everybody engaged in the matter. There is the late case in Gloucestershire, where there are two railway companies using a line jointly between them, and the question was how to rate these two. One is a very good paying line, and the other is a very indifferent one. The one that is very indifferent owns the line, but it did not suit the parishes to rate that railway. They thought that it was much better to rate the other one, because it was the one which was paying best. There, however, the Court of Queen's Bench decided that this latter line had no rateable property, because it had only the right of running on the railway of the other company as an easement.

2081. Mr. *Leslie.*] What was the actual decision of the court in this Croydon case?—The decision in the Croydon case was, that what was earned in a particular parish must be taken into calculation; that the precise amount earned in that particular parish must be ascertained, and it must be rated accordingly. That was the principle. When the point came to be tested in the court of law it was found that this principle only could be adopted, namely, to rate the property according to the express value in the particular parish which seeks to rate it; and, therefore, when the courts were driven to make that decision, I suppose they could not help themselves.

2082. Major *Cumming Bruce.*] That decision would exclude the case to which Mr. Blackburn alluded, namely, the parish of Harrow as producing nothing in itself, that it was not entitled to any share?—But it does produce value; indeed, it is a question whether it is not of extreme importance. Take that piece of the line out of the calculation.

2083. That is just what I was going to say; take that piece of line out, and the whole line is useless?—Exactly so.

2084. Mr. *Blackburn.*] You may reverse the case, and take the rest of the line away, and then that mile would be of no use; either would be of no use without the other, and therefore they should be valued as a whole?—Just so; I admit you must come to that.

2085. Mr. *Dalglish.*] I did not understand one thing you said; supposing a railway has a great trunk line with a subsidiary branch line?—According to the rule of law, as laid down in the Croydon case, the company has a right to require the parishes to make the distinction; and, on the other hand, the parishes, if they like, may make the distinction between the branch line and the main trunk; but practically there is very great inconvenience, and it is not a very easy thing to find out how far the branch line is more or less profitable than the trunk line; that is a matter which is very much in the knowledge of the railway company; but, as a point of law, the branch line is to be rated according to what is earned upon it, taking into consideration also that it is of great value to the main line; that must be considered by the parties rating or valuing that branch line.

2086. Did you take the value of the traffic that passed over it, and put a general value on it as a feeder to the trunk line?—That is so. In this case that I have mentioned here (Cannock Chace) the line itself does not pay at all, but it is exceedingly important as a feeder to the main line; it does not escape rating, but, on the contrary, is rated at a very fair sum, in consequence of its being so valuable to the traffic on the main line.

2087. Colonel *Douglas Pennant.*] Coming back to the question of the deductions allowable to houses, if a certain annual deduction is allowed for the purpose of meeting repairs, although those repairs might not be executed in that particular year, in the event of a year happening in which the house required, and had had a larger repair, you would not allow those repairs as a deduction;

deduction; you would not allow the amount of these repairs in any one particular year to be taken off the rateable value of that house?—Not practically, but I am not sure how that would stand in point of law. A ratepayer says, "I have nothing to do with last year, and I do not care for what is to happen in years to come, but I tell you, in this particular year, I have been obliged to lay out upon my house a large sum of money, and therefore I ought to have an allowance made in respect to that." That would be the legal principle; practically, however, neither the assessment committee nor the overseers would listen to that.

2088. Practically, it would be allowed, you think?—The difficulty is, of knowing what the average stated in the Statute refers to, whether it is an average for any number of years, or for what length of time the average is to be calculated.

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2089. The assessment committee have fixed, that in the first instance, and practically, they would not allow repairs of any one particular year to be brought in?—I believe they will not.

2090. Mr. *Leslie.*] Would you allow the same deduction to a house costing 1,000*l.* as to a house costing 100*l.*?—There ought to be the same allowance; that is, there ought to be the same per-centage, because if each house were in the same state and condition, and they would require the same amount, taking the per-centage to be laid out. It would be quite fair to lay out 5 per cent. on both of these houses per annum. But, on the other hand, the properties might be such as to require 10 per cent. to be laid out upon one and 5 per cent. upon the other.

Mr. PATRICK HUNTER THOMS, called in; and Examined.

2091. *Chairman.*] I BELIEVE you are Chairman of the Official Committee of the county of Forfar?—I am Chairman of the Committee appointed by the Commissioners of Supply of the county of Forfar, under the Valuation of Lands Act; and I am likewise Chairman of the Finance Committee of that county. I am also Chairman of the Parochial Board of the united parish of Liff and Benvie, and have been so ever since the passing of the Poor Law Amendment Act. That is a very large parish.

2092. In the borough of Dundee?—It includes a portion of the burgh of Dundee, and has a population of 24,000 souls.

2093. You are quite familiar with the working of our present Valuation Act?—I have had a good deal of experience of its working.

2094. Are there any points which occur to you as requiring amendment; with regard to the assessment of the poor, can you mention any particulars?—The assessment for the poor in the parish to which I have alluded is imposed according to the same classification and scale as in the parish of Dundee, which was explained by Mr. Hay in his evidence before this Committee on the 30th of March.

2095. Mr. *Blackburn.*] In Dundee itself?—Yes; Liff and Benvie includes a section of the town of Dundee.

2096. *Chairman.*] You find an inconvenience in the roll not being completed earlier?—Yes.

2097. That is on the assumption that you cannot lay on a rate until the roll is completed?—Doubts have been expressed whether we can do so, because one section of the Act says, the rate must be imposed "according to the valuation roll in force at the time," and another section says, it is only after the roll is completed that it shall "be in force as the valuation roll of the county or burgh for the year commencing at the term of Whit Sunday, immediately preceding and ending at the term of Whit Sunday immediately succeeding."

2098. You have never ventured to try whether an assessment laid on before, according to the roll when it comes to be made, is a good assessment?—We have imposed and levied assessments, and no questions have been raised as to the legality of such assessments, but doubts have certainly arisen in regard to them.

2099. It has not been questioned?—Not hitherto.

2100. It has not been objected to?—It has not been objected to in our parish at any rate; but when a given sum is imposed to be levied on subjects liable to assessment, the poundage cannot be ascertained till the roll is completed; and, in the event of railways intersecting the parish, we cannot calculate it until after the completion of the railway roll.

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2101. It would be a great satisfaction to you to have the matter settled clearly?—It would be desirable to have all doubts removed in regard to it. At present assessments for half-a-year, from Whit Sunday to Martinmas, for instance, could not be levied, because the term of Martinmas would be past before the roll would be completed and in force.

2102. Have you any objections to state as to the deductions required by the Poor Law Act?—We have a scale of deductions, but objections have been made to the allowances in certain cases. The railway companies, in particular, complain that the deduction on railways is not sufficient.

2103. You do not attempt to make deductions as to each particular property, but you have a scale?—We have a scale, according to which we arrange the parties liable in assessment into classes; we have three classes of tenants and two of owners. Different deductions or rates are applicable to each class.

2104. Three classes to occupiers; are these classes of different deductions, or for different rates?—The rates are different in each; we arrange them, and assess according to the different rates upon the different classes.

2105. In regard to the occupier, you make the classification a classification of rate, and not a classification of reduction?—It is the same thing; we do it according to a given rate.

2106. It comes to the same result, but I wanted to know how it was actually done?—It is according to a given rate.

2107. Do you find you have any difficulty as to disputes with railways?—We have not since the classification was settled. We have not many disputes. The railway companies have objected strongly to the amount. The assessment falls very heavily upon them, I do think.

2108. How is your statute labour levied?—In our county the statute labour money is levied according to the old valued rent, and there is no

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power under the Act of commuting that, as in the case of other county rates.

2109. That includes all property, mills, &c ?—The valued rent of course does not include mills or manufactories; house property is assessed according to a separate rule.

2110. By a statute?—Yes.

2111. Would you like to have the power of assessing on the land according to the real rent?—I would; the Act gives the Commissioners of Supply the power of altering the mode of assessment, but it gives no power to Road Trustees, who are a different body from the Commissioners of Supply.

2112. Then, in regard to other rates laid on valued rent for churches, manses, and school-buildings, you would have them also on the real rent?—I think it would be a great convenience, and that it would be essentially right that they should be assessed according to the actual rent as ascertained by the valuation roll.

2113. In your county, have you the Government assessors?—Yes, we have the Government assessors, and we find it a very great advantage.

2114. You prefer them?—We prefer them very much. We had a private assessor before, but he had other avocations, and of course he was less familiar with the process of valuation than the Government assessor, who gives his whole time to it.

2115. Do you find the right of appeal which exists in regard to the Government surveyor a benefit?—There is a right of appeal, but it is exercised to a very limited extent.

2116. Perhaps there may arise some question of law, some rule of assessment, which it would be of advantage for you to have settled?—Yes, that would be very desirable. A provision is made in the Valuation Act for correcting misnomers, but there is no provision made for substituting the proper party in room of a party who has been exempted by a court of law. That is one of the defects which I think it would be desirable to supply; and, where there are questions as to exemptions or liability, there should be some provision made by which the party ultimately found liable should be placed on the roll and subjected to assessment; there should be a power given to make a special entry in the roll, in short, to meet such cases.

2117. Are there any other defects you would wish to point out, or any other suggestions you would wish to make?—Those are the leading points. It would be very desirable, certainly, if a scale could be laid down for making the deductions in place of leaving it to each parish to have a separate scale of deductions; I think that would be a great convenience.

2118. You think a per-centage of deduction on different classes of property might with advantage be adopted?—Yes, I think it might. The Board of Supervision, acting, as they say, upon a decision of the court, have fixed, that the same deductions shall be made, in the first place, on all subjects to tenants or occupiers as to owners. I do not see any principle in that.

2119. In what form did that come before the Board of Supervision?—I am not able to state the case; but, according to a circular from the Secretary of the Board of Supervision, the tenants have a right to the same deductions as the owners before the rates appliable to each class of occupiers are imposed.

2120. Has the Board any authority to decide these matters?—The Board has no authority of itself; but the Board states that the Court has sanctioned that principle. I am not aware of the particular case alluded to. The owner of a house is bound to uphold it; I do not see why the tenant should have the same deduction for repairs.

2121. You think the sum on which the owner should pay is the sum that comes into his pocket, and the rent of the occupier may be taken as a fair measure of its value, according to what he pays?—Yes, during his occupancy. It occurs to me that if there was a normal rate, the rates according to the various descriptions of property might be adjusted with reference to it; for instance, in the parish with which I am most familiar, there is a deduction of 5 per cent. on land; the tenant receives that, and then he is assessed at a rate of one-third of the rate payable by the occupiers of subjects not included under special classes. I am speaking of poor rates.

2122. That is with reference to the half which was formerly in your case laid upon "means and substance," and it is now made in classification so as to make it a more equitable measure?—Yes. The assessment for the poor is now leviable one-half on owners and one-half on occupiers. The classification was adjusted very much by correspondence with the Board of Supervision.

2123. They have the veto?—They have the power of sanctioning it. An assessment is not legal till it receives the sanction of the Board of Supervision, by the Poor Law Acts.

2124. Have you anything else to state?—I do not recollect anything else of special importance. I have stated the points on which I think the Act is defective. The assessments on water and gas companies are, I think, disproportionately heavy. Where gas or waterpipes go through a district, without interfering with the cultivation or use of the surface, I do not think that they should be liable to the same rate of assessment as other property. By the Police and Improvement (Scotland) Act these are charged only one-fourth of the ordinary rate for police purposes I think that principle might, with advantage, be extended to other assessments.

2125. The representatives of these companies have suggested that it would be an advantage to be placed under the railway assessors?—Well, I disagree with them in that opinion. Speaking for the companies with which I am connected, I would rather be placed under the general assessor, because I think the railways are rated very much according to the old system of means and substance. They are assessed rather upon the profits than upon the actual rentable value of the railways.

2126. Major *Cumming Bruce.*] You think the assessment ought to be an assessment founded on the locality?—There is a great difficulty in reaching the actual value of a railway, and there are certain rules laid down which have been sanctioned by the Court. There is a committee of assessors who endeavoured to extend these rules to water companies and gas companies without any statutory authority, and they issued circulars proposing that these companies should be required to give information as to the revenue and expense of management, and so on.

2127. *Chairman.*] Was that at a meeting of the county assessors?—No, it was a committee of assessors. I have a circular of theirs in my possession.

2128. And they suggest these as rules?—They do. It was a committee of assessors who met in Edinburgh,

Edinburgh, and suggested that gas and water companies should be required to furnish returns similar to those applicable to railways.

2129. Mr. *Blackburn.*] I gather from what you say, you think it would be convenient that the same assessor who makes up the valuation roll should give a nett income on which the assessment should be levied, without any question to be settled by the parish as to what deduction should be given?—I think it would be better for a general rule to be established, than that each individual assessor should exercise his judgment as to the nett value, after allowing deductions.

2130. To apply it to each particular county there might be one tribunal of appeal to which the assessor went, but it would be necessary that each individual assessor considered each particular property?—You mean each particular class of property, I suppose; because, if an assessor was to value each particular subject, and specify the deductions for repairs, that would be a very difficult thing.

2131. It would be a long and laborious thing; but when a man is going to buy a house he has no difficulty in getting a valuation as to whether it is in good or in bad repair; and if he is going to take the annual value he could, in the same way, ascertain if it needed much annual repair?—If one house was in good order, 5 per cent. might keep it in sufficient repair, whereas it might require 20 per cent. to uphold the house adjoining, if it were in bad condition.

2132. And I admit to the chairman of the parochial board it would be difficult to ascertain that; but if you take a man whose whole business is to value houses, and who is an assessor of the county, could he not ascertain the actual value of each separate property?—He could. I have conversed with our assessor on the subject, and he says he would require a very large staff of assistants to accomplish that; he could not possibly do it himself.

2133. For the first year, perhaps; but when you once get them they would not vary from one year to another, unless parties made an appeal?—After a large expenditure was made upon an heritable subject in one year, it would not want so much in the next two or three years.

2134. That would be for the assessor to find out; that would be no hardship upon the proprietor?—That would imply that he was to make a new and separate valuation every year.

2135. I think not; because if the average expense was allowed him for a deduction, though in one year it would be more, and in another less, you might have a fair average?—There might be an average.

2136. That average must be applied to each particular property, according to what kind of property it is?—Certainly.

2137. You would prefer to have the nett value determined without any question coming before you as to allowing deductions at all?—It would be much better if we had a fixed scale by which all questions as to particular cases would be avoided.

2138. The valuing tribunal could settle this better than the parish tribunal, which only expends the money?—Of course the parish tribunal has nothing to do with settling the rules of law.

2139. It would be better taken out of your hands altogether, and put into the hands of those who make up the roll?—It is out of our hands; because the moment the scale is fixed by the parochial board the power to interfere with the rule of assessment is at an end.

2140. The classification, that is?—The classification, which settles the deduction on particular classes.

2141. But it only settles them between the classes, not between particular properties?—Not individual properties by any means.

2142. Mr. *Leslie.*] Before you could arrive at these valuations, how many appeals should you be likely to get?—I think if you were to value individual cases, and give a power of appeal, the number of appeals would be endless; I do not see how it could be otherwise.

2143. There would be a very large expense, of course, in the staff of experienced officers that would be required?—It would imply a very large expense.

2144. Mr. *Blackburn.*] Taking the case of railway property, I think you must be aware one railway may cost a great deal more to keep than another, merely because it goes through clay ground, it being very wet, and so on, while the other, going through a gravelly soil, may cost very little; that is easily ascertained from the accounts, is it not?—Of course it forms part of the regular expenditure.

2145. The valuator can find what the actual expense is; is it not much better to take the actual fact in each case and deduct the actual expenditure, than to classify and say all railways are to get some allowance, whether it costs them more or less?—Of course it is difficult to shape rules to meet every case.

2146. What is to hinder the assessor looking into the accounts, and seeing what they actually cost, and take the real fact in each case?—That is the way in which the railway assessor now proceeds; he gives the deductions according to certain rules.

2147. If that is fair and right with regard to railways, why is it not fair and right in regard to land or house property; the valuator could ascertain, as a matter of fact, what the actual cost is, and charge that?—Yes, in the case of a railway; just because a railway is a large concern, whereas, where you have 10,000, 15,000, or 20,000 individual cases, I do not see how you could deal with each individual case.

2148. Does it not happen that many of those houses come to be sold, and is not there a valuation made by somebody, and does not the party who pays the deductions take care to find out the state of the property, which can be done if anybody will take the trouble?—If the necessary trouble is taken a purchaser can ascertain the condition and value of the subject which he intends to buy. Some house property is worth 18, some worth 15, and some only worth 12 years' purchase.

2149. That can be ascertained?—It can.

2150. Mr. *Leslie.*] With necessary trouble, and necessary additional expense?—Yes.

2151. Major *Cumming Bruce.*] You have a system of classification for house property?—Yes.

2152. Do you think it possible, by a system of classification, to do justice to individual cases?—There is an inequality, and it may not do perfect justice to each individual case; but I do not see how it could be dealt with otherwise than as it is, from the vast variety of cases.

2153. Have you many complaints from house property in your district?—No, we have very few

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few complaints. It is understood that the rule is fixed by the Board of Supervision, and, as far as house property is concerned, the complaints are very rare indeed.

2154. How many appeals have you?—I do not think, in the town of Dundee, that there were last year half-a-dozen appeals, so very satisfactorily is the work performed by the Government assessor.

2155. There is not much land?—The rental of land is not great in the parish of Dundee, only 6,000 *l.* or 8,000 *l.* a year; and in the parish with which I am connected, perhaps 10,000 *l.* to 12,000 *l.* a year.

2156. What is the whole valuation of Dundee?—About 250,000 *l.*; after deducting for churches and buildings, and for charitable purposes, I think about 240,000 *l.*, in round numbers.

2157. And only 20,000 *l.* on land?—In the two parishes of Dundee and Liff and Benvie, about 20,000 *l.* in land. I might here say, that it would be very convenient if some regulation could be made for giving access to the roll to parties interested before the completion of it. It could only be done by an arrangement. If we wait till the rolls are completed in parishes such as ours, where there are necessarily two rolls, a roll for lands and heritages generally and a roll for railways, three-quarters of the year are gone before you can get the completed rolls, and a great loss arises, both from the loss of interest and the loss by bad debts, arising from changes of occupancy.

2158. *Chairman.*] And then the ratepayers must get notice?—They only get notice after the rolls are made up. There is a statutory notice given. The one roll is not made up until the 30th September, and the other roll is only made up by the 30th November. The statutory notice must afterwards be given, and before the collection can commence a great part of the year has elapsed.

2159. Do you wish access to be given to all the individual parties rated under the parochial boards?—By the Statute, I think any individual interested can demand access to the roll; but I would like that there should be access given to the boards and to the companies interested; that they should have access for the sake of copying it, I should say. I do not know how it could exactly be accomplished.

2160. Mr. *Leslie.*] Do you think the roll could be made up earlier?—I do not say that when the roll was made up for the first time it could have been done earlier, the trouble being so great; but I am satisfied it could be made up now much earlier; instead of the 30th September, it could be completed by the end of July.

2161. To include incoming tenants at Whit Sunday?—Yes.

2162. Do you think the roll could be made up?—I conversed with the assessor for Dundee, and he said it could be done with additional assistance. If it could be done by the end of July, I do not see why the railway roll should not be made up much earlier, because all the railway returns are founded on the year as completed previously.

2163. Mr. *Blackburn.*] The first of August is the term, but it might be taken of course?—It would be quite as easy to take the previous year, as in the case of the income tax. It would be a very great boon, to enable the collection to be made at an earlier period than at present; it would save a great deal to the different boards that are interested.

2164. *Chairman.*] You consider that an improvement?—I consider it would be a very great improvement.

Mr. John Fimister, called in; and Examined.

Mr. *J. Fimister.*

2165. *Chairman.*] You are the Government Surveyor?—I am the Government Surveyor for the second district of Aberdeen, comprising 42 parishes, including in area upwards of one-half of the county, and I have been so for the last 20 years.

2166. You have been appointed Assessor by the Commissioners of Supply?—I have been appointed Assessor under the Lands Valuations Act by the Commissioners of Supply. I am also Government Assessor under the property tax, and I am Special Assessor under the County Voters Act for the whole county.

2167. How long have you been assessor under the Valuations Act?—Nine years.

2168. And you have been 20 years surveyor?—Yes, in the second district of Aberdeen.

2169. Will you state any particulars with regard to the mode of rating that you would wish amended?—The Lands Valuations Act seems to work very well, and the clauses well conceived. There are some little defects that I would touch regarding the rating of lands. The general rule in farms is that the tenant receives the houses on the farm on dead inventory, and leaves them at that value, or at a higher value at the end of the 19 years' lease. Sometimes these buildings are of a mixed character, partly erected by the proprietor and partly by the tenants; and where they are erected by the proprietor, the proprietor charges a fair per-centage in addition to the rent of the land covenanted.

2170. Do you put that down as an addition to the rent of the farm?—We put that down in addition to the rent, and every entry in the valuation roll stands in the double character, grounding a charge for one-half of the poor rates, to be levied from the proprietors, and the other half to be levied from the tenant or occupier.

2171. But you have nothing to do with the imposing of the poor rates?—I have nothing to do with it.

2172. You make the valuations and leave the parochial boards to impose them according to law?—Yes; but I would observe, any alteration from the rack-rent to the proprietor carries a like alteration to the occupier as regards the amount to be levied for poor rates.

2173. That is on the assumption that one rule is, that when one sum is fixed for every estate, and one-half leviable on the tenant, the rule being that the one-half of the cumulo sum is distributed among the owners, and the other half of the cumulo sum among the tenants; that result would soon follow?—Yes. Then, as regards the rating for woodlands, the Act fixes it at the value of the land in its original waste state.

2174. It does not say "waste," I think it says "natural state?"—Although there may be a crop of wood 40 or 50 years' growth thereon, that principle would have held good and been equitable had all lands been in their natural state at the commencement of the Act, and remained so.

2175. It

2175. It charges the land on which the wood is growing, say for 20 years, at its natural value, while it is not only yielding nothing, but is a source of burden to the proprietor; and then during the years it is yielding a large profit it gives nothing additional, but just takes the whole value of the land, say for the lifetime of the wood, and charges an equal value on it all through, one-half of the life having been a burden, and the other half a profit; would not that equalise it?—I admit I had no right, perhaps, to inquire into the value of a growing crop upon such lands; but there is this principle to be observed, that the planting, and perhaps the enclosing, of these lands added considerably to their value far over what they were in their natural state, and that any amendment in the existing Acts might touch such a point. What I aim at is that some allowance or authority might be granted to value such woods at an average of five, seven, or ten years, according to what was cut of them, taking into account the original value of the lands in their natural state.

2176. Even while they were a source of burden?—I would always charge for the ground at what it might rate for grazing, whether for sheep or goats, ranging from 6*d.* to 2*s.* 6*d.* an acre; and where a revenue from sales, on an average, in addition, *vide* interpretation clause, "Woods, copse, &c. from which revenue is actually derived." Then, as regards houses, I apprehend the existing Acts do not touch or reach erections made by a tenant (or squatter) at less than 21 years, unless there is a covenant with the proprietor that such buildings or houses are not rateable according to the decision of the Supreme Court.

2177. Then, in your opinion, they should be included in the valuations?—They should be rated, because the Valuation Acts proceed upon the principle that "all" houses, lands, and heritages are to be assessed at a uniform rate.

2178. And who should be rated as owner for them?—The occupier should, I apprehend, although he is not feudally or legally proprietor, because he is in the receipt of the fruits or the profits of them; but he gets off by the legal decision that he is not proprietor in the sense of the Act, neither is he feudally vested in the subject.

2179. You would have a tenant under a lease of less than 31 years placed on the same footing as the present Act places a tenant on for more than 31 years?—Just so.

2180. Then, as regards the shootings; it is an admitted principle that many of them are kept up at a very heavy expense by keepers?—We invariably allow deductions for the expense of the keepers before entering the rent in the valuation roll, although the latter does not show this deduction. This perhaps is a lightening of the burden to the occupier for poor rates as well as to the proprietor of the shootings.

2181. Then you deduct from the actual rent, do you?—I deduct the expense of the gamekeepers of the shootings.

2182. That is to say when these are borne by the landlord?—When these are borne by the landlord. Then, as regards grass parks, we make a considerable allowance, ranging from 12½ to 25 per cent., or in some cases more, from the roup roll received for the season's grass rent, where we get evidence of the roup roll; but the proprietors hold that we are not entitled to the knowledge of the roup of the grass parks, because they are a crop rent and they give us a rate per acre of the adjoining lands, at what they yield, one year with another, according to the ordinary rule.

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2183. But you are entitled to take a valuator and make him estimate what the grass parks would bring if let from year to year, are you not?—Yes, we are.

2184. And do you not follow that rule?—We have not followed that; we have not required to follow that in any cases hitherto.

2185. You simply take the rent per acre which the landlord gives you on land used by him?—Unless we apprehend that it is much below the general rate.

2186. What suggestion do you make as to that?—I would suggest that we should take the roup roll and allow a deduction of one-third for the first year of laying down the grass.

2187. Mr. *Leslie.*] From grass parks?—From grass parks.

2188. *Chairman.*] You would treat a roup roll as rent, but allow the landlord a deduction for the outlay for keeping it up?—Yes, a per-centage for keeping it up.

2189. You are talking I suppose of improved grass parks?—Yes.

2190. And from your own knowledge and experience you give your opinion that one-third of the rent is the ordinary outlay for keeping them up?—I should say for fences and for putting them into a proper state of cultivation or repairs that it requires that a considerable per-centage of deduction should be allowed, and we do allow it from the roup roll.

2191. What deduction do you allow from houses?—The difficulty lies in giving the house proprietor deductions in this is, that, in the first place, it opens up a door for every sort of unprincipled return. We must still adhere to obtain the return of the real rent of the subject. The county voters' roll is based upon it, and it is the sole evidence at the registration courts for the sheriff to fix the qualification. And, in the next place, the Imperial taxation is based upon the rack-rent, or real rent, and in the third place the allowance of deduction for repairs or taxes is so varied that each parish would be required to be dealt with separately. The beauty and utility of the valuation roll consists very much in its simplicity and in the expedition with which it is got up and completed within the period allowed by the Statute. Were we to enter into the examination of claims for repairs, we should find one man repairs his property, one man insures his property, while three or four do not do either; and out of 42 parishes in the district that I do duty in, 16 of those parishes have no legal assessment imposed for behoof of the poor, but they have funds set apart, or voluntary contributions, that allow them to pass without making a legal assessment. And, keeping in view the difficulty of making up an assessment roll expeditiously and simply, we look upon it that it would be very difficult indeed to admit the repairs. We might, perhaps, without much difficulty, introduce a column, as was done under the Voters' Act, to show the feu duty of the subject. To embrace the local rates and taxes, that could be easily ascertained, treating each parish according to the actual facts of the case; but I do not see that we could, within the time limited, introduce the principle of allowing deduction for repairs.

2192. The only way of doing that practically would be to agree upon some per-centage which should cover the deduction on the whole?—Just so,

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so, avoiding fractional parts of a pound, as is done under the House Duty Act.

2193. The insurance you could ascertain as well as the taxes, I presume?—If it was incumbent on proprietors to produce their insurance receipts, but there are so few that do insure.

2194. In regard to mills and machinery, have you any special remarks to make?—I have generally, in the county of Aberdeen, taken this principle, that every erection was regulated in value in the locality where it stood; and looking at the price or rent that might be obtained in the place, we fix the value. We have not gone into an extrinsic valuation of mills or houses, but more of a relative value; and, of course, when I say so, that reserves the principle of going into an intrinsic valuation in the event of an appeal.

2195. How do you mean "intrinsic valuation;" do you mean you do not put an actual value on the subject?—Not such a valuation as might be bought or sold; we do not go into the real or actual value, as every calculation or rate per cent. on the original cost must yield to the value or rent believed to bring from year to year in the market If a house or mill adjoining in a similar locality fetches so many pounds of yearly rent, what will such another one in another locality, equally amenably situated, fetch.

2196. Colonel *Douglas Pennant.*] That comes to the same thing after all, an estimate of the real value?—Yes; I have not hitherto found that the Valuation Act reaches the matter of turnpike tolls, upon the same principle that it is contested in the House of Commons as to the Clyde Trust; as turnpike tolls were not mentioned in the Act, that they were not assessable, that they do not come under the head of "lands and heritages."

2197. *Chairman.*] You have rather an inclination to bring them in?—If the Clyde trustees be found liable, as I apprehend they will.

2198. As far as I understand that case, they did not attempt to levy a rate upon the River Clyde; they levy a rate upon the wharves and quays, and perhaps you might try to follow; but I do not think they levy the rate upon the public highway of the river. Is there anything further you would wish to bring before us?—No, I am not aware of any other question.

2199. Colonel *Douglas Pennant.*] When you talk of letting grass lands by the roup roll, that in fact means, in plain English, the rent at which those grass fields let?—Let for by the season.

2200. By public competition. You say it would be fair to take off 33 per cent. to meet the outgoings on fencing and keeping the land in a state of cultivation; I suppose you meant by "cultivation," keeping it in a good grass state; keeping it up to the mark, manuring and fencing?—Yes, the first year.

2201. You think 33 per cent. is a very fair deduction to take off that land for the purpose of meeting these annual outgoings in the way of keeping it up to that rental value?—I do.

2202. Why do you not think it fair to take anything off the annual outgoings of the house; a certain outlay is required to keep the house up to a state of cultivation, and why do you think there is no reason to allow a deduction in the case of repairs to a house, when you allow 33 per cent. to keep up the grass field to its proper state?—Grass fields, when once put into their proper state of repair, do not require it every year afresh. Houses are perishable, and every year require repairs; but the grass fields, neither in the fences nor in the state of cultivation, require it after the first year.

2203. Why should you allow the 33 per cent. every year from that gross rental?—I should have said, for the first year of laying down the grass only.

2204. In laying down a law, you do not legislate for one year only, but you would lay it down permanently?—It should be so; I confess I should have qualified it, and said the 33 per cent. was allowed in the first year only.

2205. Then you think it would not be 33 per cent.?—No.

2206. Still you would allow a deduction for the annual outgoings to keep that field in a proper state of rental value?—Yes, to a certain extent.

2207. Why not, then, allow a deduction for the house; you have said the house requires constant repair; would not that be a still stronger reason for allowing a deduction for the house?—Because a grass field or lands have a yearly produce which a house may not have; a house may not be tenanted; a house may produce nothing, and, in addition to that, a house may have a large feu duty to pay, which the proprietor may have to pay and yet receive nothing, and be worse than nothing, worse than if it had not existed.

2208. Then it would require a still greater deduction to meet this; if there are other outgoings, that would be rather a stronger reason for giving a fuller deduction?—That may be so; I apprehend the assessment being upon a crop, and not the ground in its ordinary state for agricultural purposes, that by the Act I have only power to have the rent one year with another at what it would let for.

2209. But the principle of the valuation is that that land is rated at whatever its value is to let?—For agricultural purposes; not as grass.

2210. Mr. *Blackburn.*] One year with another?—Yes.

2211. But it may be grass one year with another, if the grass will always keep equally good?—Yes.

2212. Supposing a large sum has been laid out on manure, so as to produce one year's crop, it is not fair to take that one year's crop as one year with another?—No.

2213. Therefore it is not the sum at which it lets, but the sum at which it would let from one year to another?—Yes.

2214. Mr. *Leslie.*] For agricultural purposes?—Yes.

2215. Major *Cumming Bruce.*] The drainage may give way, and the grass accordingly may be deteriorated; to keep it up, you would naturally allow something for the expense of maintaining it in that condition?—We have not been in the practice of allowing the expense of draining or the expense of keeping up gardens; for instance, in large gardens extending to 10 or 20 acres, the deduction claimed from such was about twice as much as the value of that garden, and the Commissioners were obliged to throw away these deductions from gardens in the state that they had hitherto been kept, and to put a fair valuation upon them.

2216. Would not that be the fairest way of treating grass land, to take the average agricultural value at which it would let from year to year?—Distinctly, I think so.

2217. Mr. *Dalglish.*] In the case of property being

being drained, you surely would not reduce your charge upon that property?—No, increase it.

2218. Colonel *Douglas Pennant.*] In the case of woods, you object, do you not, to the mode of rating the land which is occupied by wood, by timber; you object to the mode of rating that according to its original natural state?—I do, for this reason, that had all the woodlands now been in their natural state at the commencement of the Act, the clauses in the Act would have been fair and equitable; but many of these woodlands were and have now come to great maturity and value, and there is no rating upon these woods, either yearly, or on an average of years, however great the income may be from the cuttings down occasionally of these woods.

2219. But is it not liable to rate, according to what the land would let for, in an agricultural point of view, independently of the timber?—Only in its natural state.

2220. What the natural value of the land would be irrespective of timber?—Just so.

2221. That is the present law; do you propose that the land shall be rated according to the value of the timber that is on it?—According to some average statement of the sales of the timber.

2222. Would that be annually or periodically, whenever the timber was cut upon it?—Periodically; when the timber was cut.

2223. And would you take the full value of the sales of that timber upon it?—I would take an average of 3, 7, 10, or 15 years.

2224. I understood, just now, you said you would have it when the timber was cut down?—But I would take an average, because it would be unfair to ask for the growth of 40 or 50 years.

2225. If the rate is to be paid, how would you fix your average for the timber growing upon it?—What may be a value this year, may not be a value next year; the first value put upon the land is, in its natural state, from 6 *d.* to 2 *s.* 6 *d.* an acre, according as it is capable of grazing sheep, or goats, or any other animal; then the growing timber may, in the course of a number of years, become very valuable.

2226. Major *Cumming Bruce.*] How many years should you say?—I would state upon an average of 12 years.

2227. Colonel *Douglas Pennant.*] Supposing you fixed a term of 20, 30, or 50 years for the wood to arrive at maturity, how would you take your average of the annual value at which that land was to be rated?—If that wood was of 40 years' growth, I would take an average of 20 years of the sales.

2228. Of 20 years, when; past, or prospectively; what you estimate it would be worth 20 years hence?—Take the past cuttings and sales on average.

2229. And you would reduce that to an average of years?—I would.

2230. Spreading it over 20 years?—Yes.

2231. Would you take the whole amount of those cuttings?—So far as they were yielding value.

2232. What deduction would you allow from that?—I would not allow any deduction.

2233. But you were for allowing 33 per cent. off grass land just now; would you allow no deductions for fencing, for taking care of the wood?—No; because that is such a low average.

2234. Mr. *Leslie.*] There is the expense of cutting and removal?—It may be so.

2235. Major *Cumming Bruce.*] You have been assessing this land at its value as pastoral land, before any return can come from it; would you allow him a return of all these 20 years, before you assessed him upon the profits of the wood?—No, I would not, because the landlord was only rated for the ground in its natural state, and for this enhanced or additional value that I propose, as in respect of the outlay of planting and keeping these woods fenced for a number of years, till they come to maturity.

2236. Then you would assess him over again for the outlay he had been at, which yielded nothing to him, but on which you had been assessing him for the last 20 years?—I would raise the value, because it has a new and greater value than in its natural state.

2237. It is of no value for 20 years?—But he begins to get a large value this or any year when sales commence.

2238. You assess him during the 20 years when he is getting nothing, but, on the contrary, has been at a great expense?—I have assessed him 20 years for the grazing of the land only.

2239. But he has not got the grazing; according to your statement, he has enclosed the ground, and has planted it, and has got no wood from it, while you have put a grazing value on it; would you give any deduction?—I do not place such a case on an equality with the land that has remained in its natural state, unplanted, and unimproved. I hold that there is an increased value upon this increased outlay of planting and inclosing that time has brought to perfection.

2240. Mr. *Leslie.*] The Honourable Member says, that during the 20 years the proprietor has received nothing, while you have been assessing him at 2 *s.* 6 *d.* an acre?—If he has not been receiving anything, it is his own fault; because, if he chooses to inclose his ground and not pasture it, he is using his ground for another purpose than it is contemplated it was worth at the outset.

Mr. *Leslie.*] If he was to pasture it the wood would not grow, there would be no crop at all; the cattle or sheep would destroy the trees.

2241-2. Mr. *Blackburn.*] In any other case of ground, do you assess upon the crop or upon the rent?—Upon the rent.

2243. But the wood is the crop, and when you let an arable field you have nothing to do with the fact that the oats are worth 10 *l.* or 15 *l.* an acre; you have to consider the rent it would let for from one year to another?—Just so.

2244. And so it is what the land would have let for without the wood from one year to another?—Yes, provided the land had remained in the same condition as it was in its natural state.

2245. The land remained in a condition there; it was a piece of land possibly producing 5 *s.* an acre, and there was nothing done to it whatever, except to put no cattle and no sheep upon it, and to stick in some plants or seeds; the field remained in the same state; the crop came to be valuable, because there had been an outlay upon it; but you do not charge upon the crop, but upon the rent of the land before the crop was there, and the wood is the crop; you have only to do with the value of the land before the crop was put in it?—But if a proprietor improves his land, as the proprietor does who plants trees upon it, and a very large, fine, valuable crop grows upon it in the course of 20 or 30 years, producing a large

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a large sum of money, that land is intrinsically of much greater value than it was in its original state. It is an annual revision of the value in the roll, and although worthless one year may be valuable the next.

2246. You are assuming here that it is improved; that is an assumption; it may or may not be improved; I rather think from my own personal knowledge (I know a great many people who have planted and lost money by it) that the cost is greater than the return; anyhow, it is a mere crop, though not in one year, but in a series of years, and the assessment on land has nothing to do with the value of the crop or produce; it is what was the land worth to an ordinary tenant, to use it, from year to year?—Yes, had it remained so.

Mr. *Blackburn.*] It did remain so, only some person put seed upon it and grew a crop, and the crop took many years to come to perfection.

Chairman.] Is it necessary to argue the point?

2247-9. Mr. *Dalglish.*] The land, at 2 *s.* 6 *d.* an acre for 32 years' purchase, would be worth 4 *l.*; supposing 20 acres of that land is inclosed and planted with timber, would it increase the 20 acres to a value made beyond 4 *l.* if you were going to buy the property?—I would hesitate to answer that question.

2250. Mr. *Smollett.*] Do you think all these suggestions about the valuation of lands, and woods, and parks, could be embodied and settled in an Act of Parliament?—If an amendment of the Act is contemplated by this Committee, the suggestions might receive the consideration of the Committee if they thought it was worth while to make any use of them.

2251. Sir *James Fergusson.*] Do the income tax assessors in Scotland charge a man upon the revenue he derives from the sale of wood?—They do; the property-tax assessors have power under the act to take averages of wood sales.

2252. I do not mean copse wood, but growing wood?—It is in the Act.

2253. "Copse woods" are?—Yes.

2254. Not other woods, are they?—They are charged upon an average.

2255. Are you sure of that?—I am sure of that; the Act provides for it. Under the Property Tax Act we allow deductions also for the county rates; make up a note of the county rates and deduct them from the rental of each property before assessing the property tax.

2256. Mr. *Mackie.*] Is there much land in Scotland which will lie long in grass without being broken up?—In the county of Aberdeen there is not much that lies long unbroken up.

2257. What may be the average of years which it will lie in Aberdeenshire without being broken up?—I should say the average would be about five years.

2258. Then, looking to the expense attending the breaking up of grass lands, with a view to getting a higher rent when they are exposed, do you think that the agricultural value is not a fair rate?—Yes, I do.

2259. Then you do not adhere to your deduction of 33 per cent.?—Yes, I do that from the roup roll of the grass parks; I would be willing to do that for the first year of laying down the grass.

2260. If you think the agricultural value is a fair value, why give a deduction at all?—Because we are just getting a rent for these grass parks for a crop on the same principle as though we were getting a rent for a furnished house. We have no right to value the crop, neither have we any right to take into account the value of the furniture in a furnished house let; we must make deductions for that. If a house furnished is let for 250 *l.*, we are entitled to make a considerable deduction of a very high per centage from the rent, deducting the value of the furniture, to bring the house down to its relative value.

2261. Do you know the expense that would be incurred by the proprietor of grass lands if he prepared his ground with a view to growing a turnip crop?—I would not presume to state the expense, but I know that it is considerable, to put the land into condition for a turnip crop.

2262. If I were to say it was 12 *l.* an acre, would you consider that a high estimate?—Yes.

2263. Just one question with regard to plantations; do not you think they may be said to be twice valued; once when the tenant values them in estimating the amount of rent he shall offer to the proprietor, including them as shelter to the farm; suppose there was no plantation there, would the tenant give as much for his farm?—No, I do not think he would.

2264. That is one value, and then you propose to value them afterwards, so that they are twice valued?—But not more than their value. The land, as I formerly stated, is taken at its natural state, and there it remains yearly; and then, after the crop of 30, 40, or 50 years has come to maturity, I would propose some average value of the sales for rating, otherwise the valuable crop of wood would escape rating.

2265. Mr. *Leslie.*] It has been represented to the Committee that inconvenience arises from the roll not being made up sufficiently early in the season; do you think, with your experience of the matter, that the roll could be completed earlier than the 30th September?—I do not believe that it could. Every expedition is used in the county of Aberdeen, by three surveyors being put upon it with a sufficient staff of assistants, to get the returns completed, and to complete the examination of premises that there are any questions about, and the appeals fixed within the statutory time. No time is lost, and the roll must be completed at the time specified in the Act, so that the sheriff may have the roll upon his table at the court for revising the registration of county voters.

2266. You think it could not be done earlier?—Not earlier than the period at present stated. The appeals are not to be heard sooner than the 8th day of September, and not later than the 15th or 18th.

Mr. James Donoldson, called in; and Examined.

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2267. *Chairman.*] You are Assessor under the Lands Valuation Act for the city of Glasgow?—I am.

2268. And you have been so since the passing of the Act?—I have.

2269. And you are Surveyor and Valuer in the city of Glasgow, and have been so for a great many years?—I have been so for 25 years.

2270. What is the population of the city within your district?—Within the Parliamentary burgh the

the population is 395,251; the suburban population is 51,144, making a total population for Glasgow and suburbs of 446,395.

2271. That is all within the bounds over which you value?—No; the 395,251 is within the bounds over which I value.

2272. Will you give us the rental of the bounds within which you value?—The details, or the gross?

2273. You may give us the details, or, if you will tell us the gross, you may put in a note of the details?—The gross rental of the property occupied is 1,646,383 *l.*; unlet property 65,208 *l.*; making a total of 1,711,591 *l.* That rental includes railways and canals. (*See* Appendix.)

2274. How many entries are there in your roll?—107,393.

2275. Will you state the number of appeals that have taken place since the Act passed?—In the first year we had 326 appeals; the second year 62; in the last two years there were 101 in 1863, and 140 in 1864.

2276. What are the different rates levied upon your valuation in Glasgow?—There is, first, the police assessment; and I may here explain that the whole of the local rates, with the exception of the poor rates, are levied on the gross rental.

2277. Are they levied on the proprietors purely?—No; they are principally upon the tenant. I will explain the whole.

2278. Will you go over them seriatim?—The maximum police rates are, on all rents at 4 *l.* and under 10 *l.*, 7½ *d.* per pound; on 10 *l.* and upwards, 1 *s.* 3 *d.* Agricultural and pastural land are charged on one-fourth of their annual value.

2279. By the Police Act?—Yes; the same as in the general Police Act for Scotland. Railways and canals are only charged on the value of their stations, and on one-fourth the value of the line as entered in the valuation roll.

2280. That is also by the Police Act?—Yes; the two gas companies in Glasgow have each procured a partial exemption of their pipes or underground works, and they are now to be assessed for the police and statute labour on one-fourth of their annual value as entered in the valuation roll.

2281. Is that by a special Act?—By a local Act of their own. The statute labour assessment is levied at a uniform rate of 3 *d.* per pound on all description of property rented at 4 *l.* and upwards.

2282. What is the maximum; 3 *d.*, is it?—Yes, and the maximum rate is levied. Railways, canals, and gasworks have the same modifications for statute labour as for the police assessment. The present police rate is 6 *d.* per pound on all rents at 4 *l.* and under 10 *l.*, and 1 *s.* on rents at 10 *l.* and upwards.

2283. Is that equal to its maximum?—No; for the last three years the police rates have been below the maximum. The statute-labour rate is levied at the maximum, and the board has a debt of upwards of 130,000 *l.* The house of refuge assessment is limited to 1 *d.* a pound on the gross rental, and is levied at the maximum. Dwelling houses under 12 *l.* are exempt from this rate. Then there is a rate 2 *d.* per pound for parks and picture galleries.

2284. Mr. *Blackburn.*] Have you any public parks?—Three public parks.

2285. *Chairman.*] This is also the maximum?—Yes, the maximum rate is 2 *d.* a pound on rents at 4 *l.* and upwards.

2286. Do railways and canals have the same modification as for the police?—They have the same modification. There is at present a debt of 128,000 *l.* on the parks and galleries trust. The whole of these rates are limited by the Statutes imposing them, and in the event of such rates being levied on the nett rental, say, under deduction (on an average) of 25 per cent., the loss on the aggregate of those rates alone would amount to at least 30,000 *l.*

2287. There is a clause in the Valuation Act providing an equivalent?—No, it is not sufficient for them. It does not provide for assessments where deferential rates are levied; besides, all property under 5 *l.* would be exempt from the police and statute labour rates, and property between 10 *l.* and 13 *l.* would be reduced to the low rates of assessment; and, in the case of houses of refuge assessment, dwelling-houses from 12 *l.* to 16 *l.* would be exempt from assessment altogether, and these deficiencies would require to be made up by the rented shopkeepers, warehousemen, and others.

2288. But it would be quite easy to calculate the amount which the present rate would yield, and to authorise you to lay on a rate which would bring the same sum?—It would bring down a large portion of rents that are presently liable in the high rate of assessment to the low rate, and exempt others.

2289. You mean, if you are to calculate the exemption according to the nett rent and not according to the gross rent, it would bring those properties within the exemption; if the Statute gave an exemption to houses of certain value, meaning thereby the gross value, a change in the mode of imposing the rate would bring in property that had been by statute exempted?—Yes, it would bring certain classes of property under exemption, and would raise the rates on the other ratepayers.

2290. Colonel *Douglas Pennant.*] It would bring a class of houses under exemption which are not under it at present?—Yes.

2291. Mr. *Blackburn.*] It would not do so if the valuation roll stood in two columns, the one showing the gross rental for which the houses are assessible, and the other the nett rental at which they are to pay?—If the rates are to be levied on the gross rent, or readjusted so as to maintain the present incidence of taxation, all this difficult and expensive manipulation of rental would serve no purpose.

2292. Supposing the rate was 2 *d.* in the pound, if you got power to levy 2½ *d.* in the pound it would add 25 per cent. to the amount levied, and then, being reduced by 25 per cent., it would bring it to the same result?—Not in those cases where there are deferental rates. If the rate was uniform, an increase to the rate would raise the required amount; but, by any system involving deferential deductions, the burdens would be transferred from one property to another.

2293. *Chairman.*] The point you want to press upon us is the absolute necessity of securing an equivalent?—Of securing those equivalents necessary to preserve the present distribution of the burdens of taxation. The difficult rates to adjust would be those of the Water Commissioners. The Commissioners levy their assessments for the supply of water on the full annual value; and any scheme of deductions would affect them very injuriously. The public water rate is limited to 1 *d.* per pound; and if 25 per cent. be deducted from the gross rent, a deficiency will arise of at least

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least 1,500 *l.* The domestic rate is limited on the south side of the Clyde to 1 *s.* per pound, and on property beyond the Parliamentary burgh to 1 *s.* 2 *d.* per pound, while on the north side of the river the rate is unlimited. The effect of these deductions would be, that the inhabitants on the north side would require to make up not only the deficiency arising in the public rate, but also one-fourth of the rates of the inhabitants on the south side of the Clyde, equal to about 3,300 *l.* per annum.

2294. From their rate not being limited, and the south side having secured a limit?—The south side having secured a limitation of the domestic rate to 1 *s.* in the pound. There is a debt of 1,044,769 *l.* borrowed on the security of those rates. This debt would in the meantime fall in greater proportion on the north side than at present.

2295. Mr. *Blackburn.*] That includes the original water company's stock?—No, it does not; that is the borrowed money, the original water company's stock is secured by annuities; the Commissioners are to pay the money borrowed by a sinking fund; and they have got this year an Act postponing the sinking fund for five years; it is to be paid off at 1 per cent. per annum, amounting to 10,000 *l.* a year.

2296. *Chairman.*] How do you proceed in your valuation of mills and manufactories?—In Glasgow these subjects being generally occupied by the proprietors, and rarely in any instance built for letting, it has been found necessary to estimate their annual value on the cost, or present value of the ground, buildings, and fixed machinery; and the mode followed in Glasgow of valuing such subjects has been, first, to ascertain the value of the ground occupied by the mill or manufactory, and to estimate 5 per cent. on the amount as the annual value; second, to ascertain the cost or present value of the building and fixed machinery, such as steam engine, boiler and gearing, and take 7½ per cent. on the value of the buildings and machinery; and the whole being added together gives the rent a tenant would be willing to give for the manufactory. The machinery is estimated at the same per centage as the building, the presumption being that the tenant keeps the machinery in repair; indeed, no landlord has been found to let machinery without binding the tenant to keep it in repair. In that case the repairs of the machinery is not included in the rent.

2297. But you value the machinery?—At the same rate as the buildings, 7½ per cent.

2298. Colonel *Douglas Pennant.*] Seven and a-half per cent. on the original outlay?—Upon the cost or present value of the buildings and machinery, and 5 per cent. on the ground.

2299. That is put as the rental value?—As the rental value, the repairs of the factory and the renewals of the machinery undertaken by the landlord, and the tenant keeping the machinery in repair.

2300. In fact, you go on the presumption that these buildings ought to return a rental value of 7½ per cent.?—Yes; no contractor will build them for less. In 1850 I went over the whole of Lancashire in consequence of a dispute with our mill owners, and I found, in cases where mill property was let, the tenant was bound to keep the machinery in repair, and the valuators, in estimating the annual value, took the machinery and buildings at the same rate; in some cases it was 6½, in others 7, and in others 7½ per cent.; and, when they came to deduct for repairs, they made the same deduction from the machinery as they did from the buildings; not having put on anything for the repair of the machinery they did not take it off.

2301. *Chairman.*] In estimating the capital value of the machinery you make the deduction of the cost of maintaining?—In estimating the annual value of the machinery, I do not include repairs; I take it at what it would let for; the tenant keeping the machinery in repair, as no proprietor would keep up the machinery for 7½ per cent.

2302. Have you any views to state with regard to the value of railways and canals?—There is a question with the Edinburgh and Glasgow Railway as to the amount of deduction for repairing, taxes, &c.

2303. Before the court?—There is at present a question between the Edinburgh and Glasgow Railway, and the City of Glasgow Parochial Board, in which Mr. Dods gave in a report; the case is still in dependence, and the parochial board have lodged objections to Mr. Dods' report.

2304. Objecting to the amount of deduction he has allowed?—Objecting to the principles and the amount of deduction.

2305. Is it a paper given into the court?—It is a paper given into the court. (*See* Appendix.)

2306. Do you differ from Mr. Dods' principles of deduction?—The board differs from Mr. Dods.

2307. I know they do; but in your opinion do you think he has gone on correct principles?—He has not; and, not having the figures before me, I cannot say whether his figures are correct or not. With reference to the classification of houses, I think he has gone materially wrong.

2308. What is your view of that matter?—Mr. Dods in his classification mixes up dwelling-houses with shops and warehouses, the repairs in these being vastly different; and, besides, without making a very large inquiry, and to a great extent taking up the whole city, it is impossible for any one to arrive at anything like a correct classification. The repairs are quite different in dwelling-houses and in shops, and the one is more than double or treble the other.

2309. They cannot be put in the same class?—No.

2310. Shops and warehouses, you think, should be in one class?—The repairs on shops and warehouses are much less than dwelling houses.

2311. I mean as to repairs?—Repairs in shops and warehouses vary very much, they take much less to keep up than dwelling-houses.

2312. Colonel *Douglas Pennant.*] Less than dwelling-houses?—Much less.

2313. When you speak of the shop, is it not often the case that the dwelling-houses and the shops are the same holdings?—Yes, it is impossible to take those separate; but I refer to shop and warehouse property in the principal parts of the town. Where there are dwelling-houses and shops conjoined, it is scarcely possible to take them separate, but there is a very large class of shop and warehouse property in Glasgow separately occupied, and these appear to have been united with dwelling-houses in Mr. Dods' report. Then he puts in the gas and waterworks along with the other properties; in fact, it is not at all a correct

correct mode of arriving at an approximation to a classification.

2314. *Chairman.*] What deduction do you think would be fair to allow for repairs on those different classes that he has mentioned?—I have not been able to ascertain that. It would take much longer time than I have had an opportunity of giving to arrive at what the deductions should be. I have attempted to arrive at a classification of the different kinds of property, but have been unable to find the repairing of any two properties of a similar description alike. They vary very much, running from 7 to upwards of 22 per cent. on similar classes of property.

2315. Colonel *Douglas Pennant.*] That is on shop property?—No, that is on dwelling-house property. I was asked, I think, to state my views with regard to the value of railways and canals. In estimating the value of railways, I think the repairs of the line of railway, such as the rails, chairs, and sleepers, should be held as part of the tenants' obligations, the same as in the case of fixed machinery in manufactories, and that the assessor ought to deduct the amount actually expended in keeping them in repair, as well as any machinery, such as stationary engines, &c., necessary for working the line, in estimating the annual value of the railway; that the landlords' obligation should be to keep the buildings in repair, and to renew the lines of railway when necessary. Gas and waterworks, and railways and canals, should be treated in the same way as mills and manufactories. In the case of gasworks and waterworks it ought to be considered as part of the tenants' obligations to keep the pipes, machinery, retorts, and meters in repair; and, in point of fact, that is done in Glasgow with reference to the gasworks.

2316. The main pipes?—All the pipes, but not the buildings.

2317. From Loch Katrine, do you mean?—I do not value the Loch Katrine works, but the same principle would apply there. The repairs on the buildings are not deducted in making up my valuation of the gasworks.

2318. At present you have the gasworks, and you make a reduction?—For the repairs on the pipes, and also on retorts, and for supplying new clay retorts; indeed, all the expenses connected with the company, except the repair of the buildings or works.

2319. You are appointed by the magistrates, you are not a Government surveyor?—I am appointed by the magistrates.

2320. What is your opinion about the advantage of having a Government officer?—It is rather a delicate matter for me to enter into. I think, however, the appointment of the assessor should be in the hands of the magistrates and Commissioners of Supply, and in the city of Glasgow, in an economical point of view alone, it would be unwise to bring in the Government assessor; for I not only act as assessor under the Lands Valuation Act, but the whole of the assessment rolls for the city are prepared in the Lands Valuation Office; the several assessments calculated and extended, and the charge made up against each of the collectors; the appeals against the several assessments are also attended to, and the reductions on appeal certified and deducted, and in this way seeming a complete check on the whole system. A large staff is necessary for that purpose during the greater part of the year, and the same staff is employed for both purposes. During the busy season, when we are obliged to go on with the valuation roll with great expedition, a large staff of supernumeraries are brought in; but if the Government assessors were employed there would be two staffs required.

2321. That is to say, he could only do the proper valuation work, and the assessing bodies would require to do the further work?—We find it a very great facility in preparing our assessment rolls, as the assessment rolls goes on nearly simultaneously with the other rolls, and are going on at the time the Appeal Court is sitting, leaving blanks for cases under appeal, and the books are in this way ready to be put into the collector's hands just immediately after the court is over.

2322. These are not duties incumbent upon you as an assessor? — No, they are what are called extra-statutory duties, and allowance is made and deducted from the gross expenses of the office for these duties.

2323. And you have a common remuneration for the whole of the work?—For the whole of the work.

2324. What is your view with reference to the appeal to the Lord Ordinary?—The appeal to the Lord Ordinary in the present form is of very little practical use. It settles the question in the case which comes before the court, but the court gives no reason for the regulation of future cases; the judgment being, the Commissioners are right or the Commissioners are wrong. It would be preferable if there was an appeal, probably to the Court of Session, the same as to the Court of Queen's Bench in England, in the case of poor-rates; but no assessor should have the right of dragging any party to the court. Under the Amendment Act the Government assessor has a right to take a party to the Lord Ordinary; that should be left more in the hands of some assessing board, some more responsible party.

2325. You would allow the parochial board, or the water company, or any company aggrieved, as well as the individual ratepayer who thought he was aggrieved, to go to the Court of Session?—Yes; the only other parties having an interest besides the ratepayers are the assessing boards, and they should be the parties. This would give uniformity to some extent in regard to the application of the law and principles of valuation.

2326. At present you may carry the poor-rates to the Court of Session?—Yes, by a very expensive process. An appeal to the court may be desirable in some instances where questions of law are involved; the only objection is the expense.

2327. Major *Cumming Bruce.*] Allow me to ask, whether there has been much variety in the decisions of the Lord Ordinary in cases, or whether there has been any regular rule from which you can form some sort of estimate beforehand as to what the opinion will be; has there been so much uncertainty in the decisions of the Lords Ordinary as to make it extremely unsatisfactory to carry appeals to that court?—I have not had an opportunity of seeing the whole of the cases, but those I have seen appear to be conflicting. I know, in the case of railways which are not reported, where the assessor took in a certain property belonging to the railway company, and occupied by tenants, the Lord Ordinary gave one decision one year and an opposite decision in the next.

2328. Was it the same Lord Ordinary?—The same Lord Ordinary.

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2329. He gave decisions at variance with each other?—In the one case he gave a decision that the tenants of the South Western Railway should be struck out of the railway valuation; and in another case, the North British, the decision was that they were to remain. There should be some more definite line of demarcation for the railway assessor, so as to confine him to property used entirely for railway or canal purposes. The assessor, by including the rents of tenants, increases the cumulo valuation of the railway, and the ground occupied is included with the station, at the low rate of per-centage, and thus the tenant escapes assessment altogether, unless they are in the local roll, and the railway company paying in a higher valuation than they ought to do.

2330. There is no uniformity in the decisions of the Lords Ordinary upon questions really resting on the same grounds?—They appear to be very conflicting. Mr. Paterson spoke to some cases the other day and had the books with him. I have only got one of the books here, and I am not prepared to specify the cases, but the decisions are very conflicting.

2331. Then you think it desirable that there should be some other appeal than to the Lord Ordinary?—I say the present mode is unsatisfactory, and it would be a better way if the Lord Ordinary would give reasons, so that the parties interested in the regulation of future cases could understand the *res-gesta* of the decisions, and apply them to other cases.

2332. Mr. *Smollett.*] And there could be no difficulty in the Lord Ordinary giving his reasons?—I think not; in the meantime, the decisions is merely "the Commissioners are right," or "the Commissioners are wrong."

2333. *Chairman.*] Can you go on to give us any suggestions for the improvement of the present system?—I would suggest the following improvements on the present Valuation Act. The sixth section of the Act provides, among other things, "that when such lands and heritages are *bonâ fide* let for a yearly rent, conditioned as the fair annual value thereof without grassum or consideration other than the rent, such rent shall be deemed and taken to be the yearly rent or valuation of such lands and heritages in terms of this Act." These words have given rise to many disputes in the valuation courts, and conflicting decisions have been given in the local courts as well as by the Lords Ordinary. In the cities of Edinburgh and Glasgow there are numerous instances where landlords let a piece of ground at a small rent, and the tenants put up erections, increasing the annual value, in many cases, to three or four times the original rent; and there are also other cases where the tenants make additions and alterations on the subject let, changing it to other purposes and improving the value. It is contended, under the words of the clause referred to, that such expenditure by the tenant should not be taken into account in estimating the value, and that the original rent paid to the landlord should be entered in the valuation roll. The valuation court for the city of Edinburgh, acting under the advice of the present Solicitor General, authorised the increased value to be inserted in the valuation roll. The valuation court for the city of Glasgow have also in such circumstances entered the increased value in the roll. The Lords Ordinary, however, on cases being brought up to them by the Government assessors, ordered the original rent paid to the landlord to be inserted. I think the original case was Lord Lovat's.

2334. We have heard that stated; do you think that should be settled by statute?—Yes, the effect of these decisions gives rise to great inequality in the rating; and opens the door to arrangements being made between proprietors and tenants to evade the rate, and would, if sanctioned in Glasgow, be very injurious, for there are a great many thousand pounds of rental in that position.

2335. What is the mode in which you would think it just to have it settled?—There should be something to this effect inserted: "Provided that where any tenant has made erections, alterations, or improvements on the subject let, the same shall be taken into account by the assessor in estimating their annual value, the landlord having recourse against the tenant for such increase to the assessments caused by the increased value of such erections, alterations, or improvements."

2336. Mr. *Blackburn.*] Would it not be better to let the tenant pay it?—It could be done either way; but there are some cases in which the landlords are charged direct; and, in one of our parishes in Glasgow, the parochial board assess directly on the landlord on his proportion of the assessment, and in the other parishes they assess the whole on the tenant, with relief against the landlord to the extent of one-half.

2337. *Chairman.*] Then, as to the case of subletting?—A similar provision should be inserted.

2338. Then, with regard to the mode of estimating the value of railway stations?—The railway and canal stations, wharves, docks, &c., are estimated under the Valuation Act at 3 per cent. on their cost. Now this operates very unfairly in regard to the burghs and other places where these stations are situated. The annual value of these stations should be estimated in the same manner as other property in their immediate vicinity, or their annual value estimated at not less than 6 or 7 per cent.; at all events a much larger per-centage than 3 per cent., as other property in the neighbourhood is yielding much more than that; and, in England, the stations are valued the same as other property, and I cannot see any reason why they should not be so in Scotland.

2339. Have you any disputes as to what should fall under an assessor of railways valuation, and what should fall under yours?—Yes; we have had many disputes with reference to tenants alleged to have been included by the railway assessor. There was the case of the Forth and Clyde; in which the assessor stated, that he had included in his cumulo valuation rents paid by tenants within the burgh of Glasgow to the amount of 1,951*l.*; many of the tenants have erected buildings on the ground let, such as sawmills, coke-ovens, offices, counting houses, &c.; the sum estimated for the wharves, docks, &c., belonging to the canal company in Glasgow is very inadequate; indeed, the whole amount that year for the canal property, including the ground occupied by tenants, was 1,450*l.*, and in that was included 1,951*l.* of rent paid by the tenants for the ground; besides the canal company had about three-fourths more ground in their own possession; the whole was taken at the 3 per cent.

2340. Do you propose the property which is to be assessed in the ordinary way should all come under a local assessor?—No; the railway assessor should

should include in his valuation all property belonging to or leased by any railway or canal company, and used or occupied by them for railway or canal purposes, and the property let, hired, or used by any other party, should be valued and taken up by the local assessor, and inserted in the local roll.

2341. Mr. *Blackburn.*] Has it ever been settled what is included in the word "undertaking," whether land that was not used was included in the "undertaking" of a company?—It has been settled only in the cases already referred to by me before the Lord Ordinary. There is, however, a case just now in the Court of Session, between the Forth and Clyde Canal and the City Parochial Board, with a view of establishing that question; but that case has been asleep for the last two or three years. It is very unfair both to the railways and the parochial boards, that the rents paid by tenants should be included on the cumulo valuation; this 1,951 *l.*, the rents paid by tenants is, to a great extent, sent over the whole of the canal, at least to a large extent, because it is put into the general revenue of the trust, and then 3 per cent. on the value of the ground occupied by the tenants is inserted in the roll.

2342. It comes to nearly the same thing to the company whether they pay it in one shape or the other?—No, it comes very severely on the company if they are paying it twice. They pay for their tenants in the one case while the tenants should pay their own taxes, and the boards should assess the tenants as well as the wharves and docks separately.

2343. Surely they only pay as owners for the rents they receive from the tenants?—No, they pay as owners and occupiers, and the tenants escape altogether; the tenants are merged into the railway, unless they are taken out by the local roll.

2344. *Chairman.*] Is there anything further you wish to state?—The property of the railway or canal to be valued by the railway assessor should be especially defined by the Act, and no property let, hired, or used by any other party should be included in the valuation, and the valuation of the railway or canal explained to include only all property belonging to or leased by any railway or canal company, and used or occupied by them for railway or canal purposes; in short, to separate the tenants from the railway.

2345. Mr. *Blackburn.*] Supposing it were a refreshment-room at a railway station, which may be let to some party instead of a company keeping a man there themselves to sell refreshments; it would be part of the undertaking; on the other hand, an hotel, such as the Queen's Hotel, is certainly not part of the undertaking of a railway?— The present Lord President made some definition in a case with the Edinburgh and Glasgow Railway, as to what should constitute the station, and his opinion was, that the refreshment-rooms might not be necessary for a station; and so far as I recollect the question as to what constituted a station, was left doubtful. I have not the case with me. However, if refreshment rooms are let to a tenant, I cannot see any difficulty in separating them from the works of the railway.

2346. It is a contract; in the same way you might say if you contracted to keep the carriages, in order that it was a separate affair, and not part of the railway?—It would depend altogether on the obligations of letting.

2347. *Chairman.*] Complaints have been made by some parish authorities, that they do not obtain the information from the railway assessor of the principles on which he frames his estimate?—The parishes complain very much that they cannot get from the railway assessor the particulars of the valuation, with the view of satisfying themselves whether it is correct or not. They are desirous that some clause should be introduced, that when called upon by the parishes or assessings boards, the assessor should give access to the particulars of his valuation.

2348. Have you any remarks to make on our statutory mode of appointing the valuation of railways in different parishes?—Yes; with reference to the branch lines, if the railway is assessed on a general mileage rate for the whole extent of the line, the branches, whether they are single or not, are estimated at the same rate. Now, in England, the law as laid down by the courts, is the earnings in each parish; that certainly would be the most equitable mode, but it would be a very difficult one to arrive at. However, I do not see any difficulty in parting the branch lines from the trunk lines. There may be some difficulty with reference to what increase of value these may give to the trunk line, but if these are wrought out in England in parishes, I do not see any difficulty that could occur in working it out in branches in Scotland.

2349. You heard Mr. Lumley speak of a case of a branch line which was in itself a losing concern, viewed by itself, but was considered profitable as being a feeder to the main line?—Certainly, it might; but it would not be of the same value as the main line.

2350. Taken by itself it is of no value at all?—I do not thoroughly understand the English system, but in reading their books, I find they allow a certain sum for contributive value; there are sums allowed for the contribution that the branch line might yield to the trunk line.

2351. At all events, you would not give the small branch line the benefit of being equal to a similar mileage as the trunk line?—Not unless it earned anything like it. The earnings should be as nearly as possible an approximation for a division of profits. The branch line might be a very short line, and yield a very small return, but it might throw on a main line a certain amount of traffic which might go 100 miles beyond.

2352. Mr. *Blackburn.*] On the other hand, the trunk line would not have the traffic unless the branch lines existed?—No.

2353. Then, it must be considered as one concern; by acting jointly it produces so much, but taken separately, no part is worth anything; in the case of the Edinburgh and Glasgow line, if you take any parish in the middle of the county, and chop the railway up at both ends, as to the value of that part in the parish it is precisely nothing; it would not carry anything anywhere; it would be of no use?—The branch could not be valued at the same rate as that portion of the trunk line in the neighbourhood of Glasgow.

2354. But taking the part in the Barony parish of Glasgow, if you did not continue the line beyond the Barony parish it would produce nothing?—It is continued.

2355. It must be taken as a whole; the railway is only valuable as a whole, because not only one part contributes to the whole, but each

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separate portion is worth nothing *per se*?—In England it is valued so; there are more earnings in one parish than another, and the value is distributed accordingly. The accounts of the railways may be kept for branches, but I cannot see how they could be kept in parishes.

2356. I think you mentioned that you had examined some of the houses and found the rates for actual repairs varied from 11 to 22 per cent.?—The average repairs on dwelling-houses are as high as 19 per cent., 16 per cent., 22 per cent., 11 per cent., 20 per cent., 12 per cent., 17 per cent., 7 per cent.; the last are small houses. The higher class of houses are the most expensive to keep up. (*See* Appendix.)

2357. You have no doubt from your examination that it is possible to ascertain what the actual average expense is?—It might be ascertained, but it would take a long time. I have been a considerable time in procuring these few. You might ascertain it, but great deception would be attempted, and accounts would be produced by tradesmen and others without the discount being taken off, and charges made, that assessors would not be able at the time to rebut.

2358. Do you not think you could approximate very much nearer the real value than by taking a gross deduction over a class of houses?—If scales of deductions were made on a classification of the several descriptions of property, a much greater inequality would arise in the rating than at present on the gross rental, and great injustice would be done to the ratepayers, as many of them would be receiving greater deductions than they were entitled to, and the deficiency thus arising would fall on the other ratepayers. I may mention that, in the early Property Tax Acts deductions were made for repairs, but the Legislature, in 1806, abandoned those deductions, and afterwards levied the property tax on the gross rent, which continues to the present day. It is stated by the late Mr. Charles Presly, one of the Commissioners of Inland Revenue, in his evidence before a Select Committee of this House on the Income and Property-tax, in 1852, that by the Property-tax Act of 1806 the allowance for repairs was taken away, and the reasons stated for the same are that "an allowance had been granted to owners of estates in consideration of the necessary repairs paid by them, but which allowance had been found so inadequate and to operate so unequally, and to be demanded in many instances where repairs were done by tenants, that the Legislature had very wisely omitted that deduction.

2359. Practically, the tenants do all the repairs in England, and in Scotland they do not; so that they would pay a heavier income tax in Scotland than in England; are you aware that such is the view?—I am not aware. I am aware that in some instances the proprietor pays the tenant's taxes, but I do not know anything of the repairs; but if the repairs are done by the tenant, that would fall to be added to the rent. I may further state, that I am of opinion that the gross rental is, on the whole, the most equitable for levying all assessments, including poor-rates; and that the deduction for repairs, insurance, and taxes is delusive, and would lead to great confusion and inequality in levying the assessment; would open a wide door to fraud and imposition, difficult to detect, and operate in many cases very injuriously, as in the case of shopkeepers and others paying high rents, their rents would be increased; and, in the case of dwelling-houses of the higher class, their rates would be diminished, and in this way, to a great extent, changing the incidence of taxation.

Mr. George Dods, called in; and further Examined.

Mr. *G. Dods.*

2360. *Chairman.*] You wish to make some explanation to us?—I was not quite prepared last day in regard to the Glasgow Corporation Water Works. I am desirous to make an explanation of the mode by which I arrived at the value in the first year. In proceeding to value the subjects, I first ascertained the total sum paid for the works of the old companies; for the water in Loch Katrine, Loch Vennachar, &c., for the tunnelling and main drains; and for extending and improving the supply and street pipes in Glasgow. These together I found amounted to nearly 1,490,000*l.* I next ascertained the free proceeds of the whole undertaking, after paying working expenses, and found it to be 53,800*l.*, or about 3·61 per cent. on the outlay. I called upon the Commissioners to furnish me with a statement showing the amount expended in each parish from Loch Katrine to Glasgow in the acquisition of the water and construction of tunnels, reservoirs, and works up to the point where the distribution commences. Also with the measurement of the main service street pipes in the different parishes in Glasgow. With these data before me, I proceeded with the apportionment. I estimated the value in the outlying parishes at the per-centage above mentioned (3·61), on the sum expended in each. This swallowed up about one-half of the nett revenue, ascertained as above, and I divided the remainder among the parishes coming within the distribution point according to the extent, in lineal measurement, of the main service street pipes in each. In the circumstances my estimate of the value in the outlying parishes was the most equitable, no one objected, and Mr. Burnet, the secretary to the Commissioners, expressed himself satisfied. The value of the whole undertaking has increased to nearly 64,000*l.* This increase I have divided among the parishes within the distribution point, as it is there that the additional profit has been made. I mean to make no addition to the value in the outlying parishes unless there be new works of any considerable magnitude. If Mr. Burnet's evidence was correctly reported in a Glasgow newspaper, he does not seem to have recollected the mode I pursued, and I thought it necessary to make this explanation.

2361. Is there any other point you wish to explain?—I took the liberty of writing to you, concerning one or two difficulties I had in working the Act. The first was, that I am confined strictly, in the Act, to Scotland. The North, British, and Caledonian Railway Companies have large portions of their undertaking in England. The North British had, last year, 85 miles, and in the ensuing year they will have upwards of 100 (126), besides large stations at Carlisle, Berwick-upon-Tweed, Newcastle, and other places.

2362. In

2362. In valuing the whole subject you would like to take what is really the whole amount of their undertaking?—I am confined to Scotland alone.

2363. Major *Cumming Bruce.*] You would like to embrace the whole undertaking?—I would like to have some power to ascertain the value of the portion in England, so as to deduct it from the cumulo, and thus ascertain the value of the portion in Scotland. Were these portions of equal value with the main line in Scotland, the difficulty might be overcome; but still there would be a difficulty, as I have no right to cross the Border to value either station or line. My plan hitherto has been to make an estimate of the value of the portions in England, but my estimate has never given satisfaction to the company; a large portion of the lines of the North British in England are very profitless, and were I to deduct a sum equal to the mileage, I would do great injustice to the parishes on this side of the Border. I have attempted to get information from the unions and parochial authorities in England, but they refuse to supply it. In these circumstances, some power should be given me to ascertain what should be deducted from the cumulo value of the undertaking, as applicable to England, especially now that the company are extending far into the Border counties.

2364. *Chairman.*] Can you not get the whole of the information you require from the company?—It would be difficult accounting; I dare say they could do it. I have no means of ascertaining what the parochial authorities in England fix as the value of the portions there.

2365. I do not know that that is material to your purpose. You wish to ascertain the value, not what they charge. You can get the materials for that from the company; is there any necessity for enabling you to go to the unions?—If I could force the information from the company, that would do.

2366. *Chairman.*] If the Legislature give you power to get from the company all that is necessary, I do not exactly see why you should ask power to go to the unions?——

2367. Mr. *Smollett.*] I understood Mr. Dods to say his estimates have not been acquiesced in?—They have been acquiesced in, but there is a grudge about it.

2368. *Chairman.*] How did you get the information; did you not get it from the company?—I made an attempt by estimating single lines at half the value of the double lines, and in that way I estimated or guessed at the value of the Border unions, and some of those profitless lines that the North British have in the Border counties.

2369. Will you go on to any other point you wish to name?—I have heard Mr. Donoldson's evidence in regard to the difficulty we have in ascertaining the line of demarcation between his duty and mine in regard to the depôts and refreshment rooms, and the subjects let by the railway and canal companies, and I think, had the word "undertaking" been defined in the interpretation clause, that difficulty might have been avoided.

2370. There is no definition at present?—Not of the word "undertaking."

2371. You concur with him in the advantage of having that defined?—Yes; there are great inconveniences, and several cases of conflicting decisions about it.

2372. Would you have any objection to the parochial authorities being entitled to require from you the principles on which you make the valuation of lines passing through their parishes?—In making up my accounts?

2373. Making up your valuation?—I have refused it hitherto, and I think properly; I get access to private accounts of gas companies as well as railway companies; I have access to books of all descriptions, they can refuse me nothing; working agreements, and a great many things of that sort, which it would be unfair to reveal to parochial boards, who might come and ask me to give them fuller information than they were entitled to; when my valuation is appealed against to the Lord Ordinary, I consider that he becomes the assessor, and he asks for such information as he wishes, and judges of it.

2374. To enable them to form some reasonable opinion, whether they should take the case to a court or not, would it not be fair that you should give them, I do not say all the information you have got from the railway company, but that you should give your opinion at least as to the principles on which you have formed your estimate?—They know the principles.

2375. Mr. *Blackburn.*] I rather think Mr. Dods has given out the principles very often, but he refuses to give the details that he receives from the railway company?—I have given more details than the court advised me. In the first year the Lord Ordinary advised me not to let the parochial board know anything about it, because no two railways are necessarily valued on the same principle, and it would be very inconvenient, as well as unfair, to have the details discussed by every parochial board who choose to demand inspection. Besides parochial boards, as such, have no interest whatever in the valuation of any subjects in the rolls.

2376. *Chairman.*] What do you give the parochial boards?—I have given them the sight of the valuation roll; they have themselves the published accounts of the companies, and knowing the general principle they can, by examining them, come pretty nearly to what the annual value should be.

2377. Do you give them the amount of deduction which you allow for particular items?—Do you mean tenants' profits?

2378. No, repairs?—The working expenses are all detailed in the printed report. They can get it elsewhere without coming to me.

2379. Mr. *Blackburn.*] The maintenance is not deducted in your valuation?—No.

2380. Major *Cumming Bruce.*] Supposing you returned a lower valuation on which the railway was to be assessed than they thought was correct according to the accounts, and they asked you on what ground you deducted a certain amount from the assessable property; would you answer that question?—It is very likely I would. I am not obliged to do it, but it is very likely I would do it if I were asked.

2381. Mr. Cameron said, in his evidence, that after all deductions for expenses incurred on a railway, they had divided a quantity of profit of a certain amount, and that the return was only half of that; I should like to ask this question, in returning that as the amount, was the deduction you had previously given to the railway for maintenance of way, and so forth, included?—I gave no deduction for maintenance; but all other deductions affecting the carrying trade have been made.

2382. You stated certain deductions that you gave

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gave; I think you made them out a certain per cent.?—Yes; the deductions for profits of trade are made according to the value of the plant.

2383. Was that deducted before you returned the sum?—Before I returned it.

2384. Was it included in the sum which you deducted before returning the sum to be assessed upon?—I returned the value of the heritable subject, after deducting all expenses affecting the carrying on trade as carriers upon the line.

2385. You deducted 30 per cent. for various things?—For interest of money, profits of trade, and for deterioration of plant.

2386. Is that included in the deduction of one-half of the divisible profit before; they say the nett value was 75,000*l.*, and you returned it at 25,000*l.*?—The Company in this case carried on a large and extensive business, as carriers upon the line, and the profits that they divided embraced both the profits as carriers, and the value of the heritable subject in which the business was carried on.

2387. Had not you deducted before that the per centage of the carriers' profits?—They divided that among themselves; what I returned was the value of the heritable subject.

2388. Was not that included in what they divided among themselves?—Mr. Cameron made a mistake regarding the value; he said the nett value, after paying all expenses, was 75,000*l.*, and that I valued it at 25,000*l.*; the nett value, according to my account, was only 46,000*l.*, and the value in the books of the heritable subject was 25,000*l.*, very nearly one-half; Mr. Cameron made it one-third only. The company to which Mr. Cameron referred have, since his examination, published their report, in which they admit having hitherto divided income they never realised. In the present half-year they cannot even pay interest on all their preference stock; my valuation of this concern was nearer the truth than their own reports.

2389. *Chairman.*] Is there any other point you wish to state?—A difficulty has arisen since the passing of Mr. Lindsay's Police Act. By the 21st section of the Lands Valuation Act, I am directed to apportion the lines of railway among the several parishes, counties, and burghs through which they pass; and, in the Interpretation Clause, the word "burgh" is said to apply only "to a city, burgh, or town being a royal burgh, or which sends or contributes as a burgh to send a Member to Parliament." This division answered all purposes until the passing of the above-mentioned Act in 1862. Under it the sheriff fixes the boundaries of "populous places" desirous of adopting its provisions, and the assessors under the Lands Valuation Act are directed to furnish the names of the proprietors, and the value of all lands and heritages within these boundaries. It is desirable that these should be entered accordingly in the valuation rolls; but it cannot be done so long as I am bound to the form prescribed in the 21st section of the Act. I must confine myself strictly to Parliamentry burghs.

2390. You would wish to be added amongst Parliamentary burghs and populous places?—Or places adopting that Act. It would be very easily done, but I cannot do it so long as I am restricted to cities and burghs. When any populous place adopts that Act, they either make a guess at the value of the railway or they send for me; and I have sometimes to go a great distance to measure and value the portions within the limits fixed by the sheriff. I have a note, too, in regard to the time of appealing. We have had conflicting decisions in consequence of the time limited to the railway companies to appeal, being the 8th September, while the parishes, counties, and burghs can lodge objections up to the 30th November. In one year, an appeal by the Forth and Clyde Company came before Lord Mackenzie, and he gave a decision about the 25th September, fixing the value of certain subjects in Glasgow. On the 1st of October the parish authorities lodged objections against the value of the very same subjects, which came before Lord Kinloch, who altered the value to a considerable extent. One day should be fixed for all.

2391. And which do you think would be the most convenient term?—I think the 8th September is much better; that there should be no appeal after that.

2392. *Chairman.*] Then you would have the roll finished sooner?——

2393. Mr. *Blackburn.*] You cannot give in the roll for the counties and burghs till very late?—I cannot finish them till the 1st December; if the appeals are lodged by the 8th September, I do not see anything to prevent the Lord Ordinary deciding them in one month, and thus enable me to lodge the rolls sooner than at present.

Mr. Hugh Bartholomew, called in; and Examined.

Mr. *Hugh Bartholomew.*

2394. *Chairman.*] With what companies are you connected?—The City and Suburban Gas Company of Glasgow.

2395. Your company is now assessed by Mr. Dods, the assessor?—Yes.

2396. Is there anything in the present system that you object to?—Yes; he charges us a higher sum than we pay for dividend; he charges upon "means and substance."

2397. We are not here to control Mr. Dods, or to correct anything that he has done; what you should direct your attention to is any defect in the machinery, and not to review Mr. Dods' decision; will you go on with any objection you have to the present system?—Up to the date of the Lands Valuation Act coming into operation we were charged at the rate of 3,000*l.* a year; it is now increased till it is up to 19,388*l.*; we complain on account of other large works being charged at a very low rate compared with us; for instance, John Kennant & Co., of St. Rollox, are charged 2,600*l.*

2398. They are valued by Mr. Donoldson?—Yes.

2399. Mr. *Blackburn.*] You say you get an assessment on a larger sum than you divide as dividend?—Yes.

2400. Have you borrowed money that you have to pay interest upon besides?—Yes; we have 36,000*l.*

2401. Then, that will account for it at once?—It is like a mortgage upon an estate that does not produce the rates because there is a mortgage, and

and the unfortunate proprietor has to pay the interest without any deduction.

2402. *Chairman.*] How do you want to be assessed?—We wish to get large deductions. In England they give large deductions to gas companies; for instance, meters; these are called tenant's property; we do not get that. Our gas holders are as much floating stock as locomotives upon a railway; these are all charged as heritable.

2403. Mr. *Blackburn.*] It is a fixture?—No; it moves up and down every day.

2404. But the rods it walks upon are fixed lightly?—It runs upon a pully; it is just the same as the rail of a railway.

2405. *Chairman.*] By what tribunal would you wish to be assessed?—We just want a little relief; that is all we come for. We do not get the deduction that other companies get; for instance, working expenses. Our profits for the year are 19,860 *l.*; he adds 1,610 *l.* for working expenses; then he allows half of general repairs, but adds the other half; then meters and service pipes very soon come down; we take off 1,488 *l.* for depreciation of these, but he charges that to our profits. The interest upon the money, we do not find fault with that. The meters are only calculated to last about 15 years.

2406. Do you want an appeal against Mr. Dods?—We have a power of appeal.

2407. Mr. *Blackburn.*] You make the same complaint as the railway companies; they say their rails and sleepers wear out in 15 years, on an average, and you say your retorts wear out in 15 years; as the law stands at present, no deductions are allowed on that account; it is not the gas company only, but all companies are in the same boat?—The other gas companies are rated just in the same way?—Yes.

2408. Do they find the same fault?—They make the same complaints.

Chairman.] I think we understand quite well what you want, and we will consider it.

LIST OF APPENDIX.

Appendix, No. 1.

Papers handed in by Mr. George Dods, 27 March 1865: PAGE

(A.)—Table No. 1.—Applicable to Railway Companies whose Lines of Railway are wholly or chiefly double Lines. Showing (1st). Gross Revenue; (2d). The Yearly Valuation as made up by the Assessor; (3d). The Cost of Maintenance and Renewal of Way and Stations; the Number of Miles Maintained, and the Cost per Mile;—and showing also, the rate per cent. which the Cost of Maintenance bears to the Assessor's Valuation and to the Gross Receipts - - - - - - - - - 129

(B.)—Second Division. 6th April 1864.—Report by George Dods, Assessor of Canals and Railways in Scotland, in suspension and interdict at the instance of the Edinburgh and Glasgow Railway Company, incorporated by Act of Parliament, Suspenders; against John Miller, Collector of Assessment for Relief of the Poor in the City Parish of Glasgow, Respondent - - - - - - - - - 133

Appendix, No. 2.

Paper handed in by Mr. William Bennett, 27 March 1865:

Tables 3 and 4 show Comparative and General Average of, 1st. Gross Revenue; 2d. Assessor's Valuation; 3d. Cost of Maintenance and Renewal of Way and Stations; and, 4th. Number of Miles maintained of Railways in Tables 1 and 2, reduced to the Per-centage which the General Average Maintenance and Renewal bear to, 1st. General Average Gross Revenue; and, 2d. To General Average Valuation, the Cost of General Average Maintenance per Mile per Annum, and General Average Gross Revenue per Mile per Annum - - - - - - - - - 139

Tables 5 and 6 show the Amount which each of the Railways in Tables 3 and 4 would receive for Maintenance and Renewal if Deduction were estimated, 1st, on Own Average per Cent. of Value, and on General Average per Cent.; 2d, on Own Average per Cent. of Gross Revenue and on General Average per Cent.; 3d, on Own Average Cost of Maintenance per Mile, and on General Average Cost per Mile, compared with the Sums actually expended by each for Maintenance, Year 1864-5. - - - - - - - - - - - - - - - - - 140

Appendix, No. 3.

Papers handed in by Mr. W. J. Menzies, 30 March 1865:

(A.)—Schedule showing the value of Water Power in different parts of Scotland - 142

(B.)—Valuation of Valleyfield Mills by the Assessor of the county of Midlothian - 142

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APPENDIX.

Appendix, No. 1.

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(A.)

TABLE No. 1.—Applicable to Railway Companies whose Lines of Railway are wholly or chiefly Double Lines. Showing (1st). Gross Revenue; (2d). The Yearly Valuation as made up by the Assessor; (3d). The Cost of Maintenance and Renewal of Way and Stations; the Number of Miles Maintained, and the Cost per Mile;—and showing also, the Rate per Cent. which the Cost of Maintenance bears to the Assessor's Valuation and to the Gross Receipts.

NAME OF RAILWAY.	YEAR.	Gross Revenue.		VALUE.	Maintenance and Renewal of Way and Stations.				
		Total Amount.	Amount per Mile of Extent.		Total Amount Expended.	Per-Centage		Miles Maintained.	Cost per Mile.
						To Value.	To Receipts.		
		£.	£.	£.	£.			M. chs.	
Caledonian Railway, 1847–8	1855–56	571,840	2,899	220,940	40,624	18·4	7·1	197 14	206·
	1856–57	553,379	2,805	205,118	40,291	19·6	7·3	197 14	204·2
	1857–58	622,348	3,122	195,638	33,351	17·	5·3	199 14	167·4
	1858–59	678,103	3,378	253,365	43,068	17·	6·3	200 62	214·5
	1859–60	660,485	3,290	269,652	46,541	17·2	7·	200 62	231·8
	1860–61	714,096	3,557	308,370	63,412	20·5	8·8	200 62	315·8
	1861–62	774,921	3,440	343,185	84,108	24·5	10·8	225 22	373·4
	1862–63	796,117	3,355	337,636	83,214	24·6	10·4	237 14	350·7
	1863–64	807,511	3,403	319,742	84,426	26·4	10·4	237 14	355·8
	1864–65	864,607	3,587	354,561	95,090	26·8	10·9	241 0	394·5
	Ten years -	7,043,407	- -	2,808,207	614,125	- -	- -	2,136 38	—
	Average -	704,341	3,295	280,820	61,412	21·8	8·7	213 52	287·3
Glasgow and South Western	1855–56	278,022	1,500	96,728	24,046	24·9	8·6	185 38	129·6
	1856–57	305,145	1,645	108,600	23,162	21·3	7·6	185 38	125·
	1857–58	330,379	1,781	124,671	28,194	22·6	8·5	185 38	152·
	1858–59	350,425	1,881	131,100	32,977	25·2	9·4	186 16	177·
	1859–60	361,148	1,783	141,042	29,372	20·8	8·1	202 43	145·
	1860–61	379,133	1,872	160,439	40,757	25·4	10·7	202 43	201·2
	1861–62	413,979	2,044	187,388	57,220	30·5	13·8	202 43	282·5
	1862–63	417,383	2,061	182,089	68,849	37·8	16·4	202 43	339·9
	1863–64	422,103	2,084	169,676	69,588	41·	16·4	202 43	343·6
	1864–65	447,158	2,208	189,238	71,457	37·7	16·	202 43	352·8
	Ten years -	3,704,875	- -	1,490,971	445,622	- -	- -	1,957 68	—
	Average -	370,487	1,892	149,097	44,562	29·9	12·	195 63	227·6
Aberdeen Railway and Arbroath and Forfar.	1855–56	102,137	1,408	27,577	6,229	22·6	6·	72 31	85·9
	1856–57	116,429	1,605	35,582	6,278	17·6	5·3	72 31	86·6
Scottish Midland - -	1855–56	44,087	1,068	16,651	4,197	25·2	9·5	41 20	101·7
	1856–57	50,031	1,212	17,827	3,652	20·4	7·3	41 20	88·5
The above Railways, now called Scottish North Eastern.	1857–58	178,250	1,567	52,447	11,216	21·4	6·3	113 51	98·6
	1858–59	185,756	1,633	61,106	13,381	21·9	7·2	113 51	117·6
	1859–60	187,056	1,637	66,853	14,470	21·6	7·2	114 24	126·6
	1860–61	196,077	1,716	74,985	16,063	21·4	8·2	114 27	140·6
	1861–62	196,682	1,721	74,985	14,531	19·4	7·3	114 27	127·2
	1862–63	215,632	1,012	87,109	16,111	18·5	7·5	114 27	141·
	1863–64	213,466	1,868	80,956	19,740	24·4	9·2	114 27	172·8
	Nine years	1,685,603	- -	596,078	125,868	- -	- -	1,026 16	—
	Average -	187,289	1,643	66,231	13,985	21·1	7·4	114 0	122·6

Table No. 1.—Applicable to Railway Companies whose Lines of Railway are wholly or chiefly Double Lines, &c.—*cont^d*.

NAME OF RAILWAY.	YEAR.	Gross Revenue. Total Amount.	Gross Revenue. Amount per Mile of Extent.	VALUE.	Maintenance and Renewal of Way and Stations. Total Amount Expended.	Per-Centage To Value.	Per-Centage To Receipts.	Miles Maintained.	Cost per Mile.
		£.	£.	£.	£.			M. chs.	
Dundee and Arbroath -	1855–56	27,973	1,645	5,200	2,349	45·1	8·4	17 07	138·
	1856–57	28,942	1,702	6,927	2,516	36·3	8·7	17 07	148·
	1857–58	31,079	1,828	8,809	1,730	19·6	5·5	17 07	101·8
	1858–59	32,967	1,939	8,535	1,507	17·6	4·5	17 07	88·6
	1859–60	29,208	1,718	7,443	1,011	13·6	3·4	17 07	59·5
	1860–61	31,283	1,840	9,039	1,651	18·2	5·2	17 07	97·1
	1861–62	34,395	2,084	9,974	1,817	18·2	5·2	16 38	110·
	1862–63	34,395	2,084	9,975	2,123	21·3	6·1	16 38	128·6
	1863–64	36,628	2,220	12,264	2,423	19·7	6·6	16 38	146·8
	Nine years -	286,870	- -	78,166	17,127	- -	- -	151 76	—
	Average -	31,874	1,875	8,685	1,903	21·9	6·	16 70	112·6
Scottish North Eastern, as at present constituted:									
Scottish North Eastern -	Nine years -	1,685,603	- -	596,078	125,868	- -	- -	1,026 16	—
Dundee and Arbroath -	Nine years -	286,870	- -	78,166	17,127	- -	- -	151 76	—
Both for - - -	1864 & 1865	259,542	1,966	98,039	31,723	32·3	12·2	132 05	240·3
	Ten years -	2,232,015	- -	772,283	174,718	- -	- -	1,310 17	—
	Average -	223,201	- -	77,228	17,471	22·6	7·8	131 00	133·3
								Miles.	
Scottish Central - -	1855–56	124,114	2,458	32,352	9,251	29·	7·4	50½	183·
	1856–57	131,854	2,611	36,622	8,207	22·4	6·2	50½	162·5
	1857–58	142,697	2,825	45,334	7,595	16·7	5·3	50½	150·4
	1858–59	152,420	2,836	42,637	8,405	19·7	5·5	53¼	156·4
	1859–60	152,317	2,684	44,098	13,135	30·	8·6	56¾	231·4
	1860–61	162,720	2,867	49,629	17,853	36·	10·9	56¾	314·6
	1861–62	167,039	2,943	52,990	13,410	25·3	8·	56¾	236·3
	1862–63	178,009	3,136	52,990	19,584	37·	11·	56¾	345·
	1863–64	173,827	3,063	46,968	23,781	50·6	13·6	56¾	419·
	Nine years -	1,384,997	- -	403,620	121,221 less 6,729 = 114,492	{Charged to capital for improved value.		489	—
	Average -	153,888	2,832	44,846	12,721	28·4	8·2	54⅓	234
								M. chs.	
Dundee and Perth - -	1855–56	38,505	1,770	12,985	1,536	11·8	4·	21 70	70·6
	1856–57	43,248	1,988	16,284	2,070	12·7	4·7	21 70	95·
	1857–58	47,377	2,180	18,239	2,109	11·5	4·4	21 70	97·3
	1858–59	45,587	2,096	17,141	1,951	11·3	4·3	21 70	89·7
	1859–60	43,447	1,997	16,830	1,963	11·5	4·5	21 70	90·2
	1860–61	41,757	1,920	15,531	2,635	17·	6·3	21 70	121·
	1861–62	44,911	2,065	17,389	2,460	14·	5·5	21 70	113·
	1862–63	45,647	2,200	17,139	2,655	15·4	5·8	20 59	128·
	1863–64	46,756	2,253	18,202	2,441	13·4	5·2	20 59	117·6
	Nine years -	397,235	- -	149,740	19,820	- -	- -	194 48	—
	Average -	44,137	2,029	16,638	2,202	13·23	5·	21 50	102·
Scottish Central as at present constituted:									
								Miles.	
Scottish Central - -	For 9 years	1,384,997	- -	403,620	114,492	- -	- -	489	—
Dundee and Perth - -	For 9 years	397,235	- -	149,740	19,820	- -	- -	194½	—
Both - - -	For 1864–65	241,000	3,110	78,412	*34,425	43·9	14·2	77½	444·2
	10 years -	2,023,232	- -	631,772	168,737	- -	- -	761	—
	Average -	202,323	- -	63,177	16,874	26·7	8·3	76	222·

* Under deduction of 8,271 *l.* improved value charged to capital.

Table No. 1.—Applicable to Railway Companies whose Lines of Railway are wholly or chiefly Double Lines, &c.—*cont^d*

NAME OF RAILWAY.	YEAR.	Gross Revenue.		VALUE.	Maintenance and Renewal of Way and Stations.				
		Total Amount.	Amount per Mile of Extent.		Total Amount Expended.	Per-Centage		Miles Maintained.	Cost per Mile.
						To Value.	To Receipts.		
		£.	£.	£.	£.			*Miles.*	
Edinburgh and Glasgow (including Edinburgh and Bathgate). Thirty-two miles of Canal included.	1855–56	238,290	1,929	77,597	18,260	23·5	7·6	123½	148·
	1856–57	241,066	1,952	68,015	22,427	33·	9·3	123½	181·
	1857–58	256,448	2,076	67,421	27,281	44·6	10·6	123½	221·
	1858–59	274,312	2,221	82,217	20,827	25·3	7·6	123½	169·
	1859–60	292,000	1,976	113,599	25,188	22·1	8·6	147¾	170·
	1860–61	310,082	2,098	127,986	29,599	23·1	9·5	147¾	200·
	1861–62	327·787	2,218	138,982	28,946	20·8	8·8	147¾	196·
	1862–63	339,111	2,295	119,391	35,868	30·	10·6	147¾	243·
	1863–64	372,826	2,133	122,282	50,106	40·9	13·4	174¾	287·
	1864–65	410,842	2,351	151,592	39,437	26·	9·6	174	225·
	Ten years -	3,062,764	- -	1,069,082	297,939	- -	- -	1,433¾	—
	Average -	306,276	2,136	106,908	29,794	28·	9·4	143½	208·
Edinburgh, Perth, and Dundee. (Five-and-a-half miles of Ferries.)	1855–56	153,166	1,963	20,132	12,504	62·1	8·1	78	159·
	1856–57	168,194	2,156	26,641	14,832	55·6	8·8	78	190·
	1857–58	179,793	2,305	40,209	12,880	30·2	7·1	78	165·
	1858–59	174,357	2,232	29,769	12,353	41·5	7·	78	158·
	1859–60	170,305	2,183	35,430	11,279	30·1	6·6	78	144·
	1860–61	179,121	2,296	39,330	11,192	28·4	6·2	78	143·
	1861–62	185,536	2,378	42,056	12,971	30·8	7·	78	166·
	1862–63	196,886	2,316	43,930	16,004	36·4	8·1	85	188·
	Eight years	1,407,358	- -	277,497	104,015	- -	- -	631	—
	Average -	175,919	2,227	34,687	13,002	37·4	7·4	79	164·6
North British Railway -	1855–56	239,472	1,609	46,853	30,382	64·8	12·7	148¾	204·
	1856–57	255,797	1,719	48,314	31,177	64·5	12·1	148¾	209·
	1857–58	259,610	1,745	69,924	20,630	29·5	7·9	148¾	138·
	1858–59	265,300	1,783	78,274	19,842	25·3	7·4	148¾	133·
	1859–60	280,000	1,818	93,861	19,859	21·1	7·	154	129·
	1860–61	296,157	1,918	103,200	26,124	25·3	8·8	152	172·
	1861–62	320,079	2,013	110,429	33,779	30·6	10·5	159	212·
	1862–63	340,538	2,141	110,429	34,047	30·9	10·	159	214·
		2,256,953	- -	661,284	215,840	- -	- -	1,219	—
	Average -	282,119	1,850	82,660	26,980	32·6	9·5	152½	177·
North British (as at present constituted).	1863–64	578,000	1,474	135,200	76,198	56·3	13·2	392	194·
	1864–65	622,124	1,587	156,985	66,897	42·6	10·7	392	170·
		1,200,124	- -	292,185	143,095	- -	- -	784	—
	Average -	600,062	1,531	146,092	71,547	49·	11·9	392	182·
North British, - - -	For 8 years	2,256,953	- -	661,284	215,840	- -	- -	1,219	—
Edinburgh, Perth, and Dundee - - -	For 8 years	1,407,358	- -	277,497	104,015	- -	- -	631	—
Both - - - - -	For 2 years	1,200,124	- -	292,185	143,095	- -	- -	784	—
		4,864,435	- -	1,230,966	462,950	- -	- -	2,634	—
	Average of Ten years	486,443	1,849	123,096	46,295	37·6	9·5	263	176·

TABLE No. II.—Applicable to Railway Companies whose Lines of Railway are wholly Single Lines.

NAME OF RAILWAY.	YEAR.	Gross Revenue.		VALUE.	Maintenance and Renewal of Way and Stations.				
		Total Amount	Amount per Mile of Extent.		Total Amount Expended.	Per-Centage		Miles Maintained.	Cost per Mile.
						To Value.	To Receipts.		
		£.	£.	£.	£.			*M. chs.*	
Great North of Scotland -	1857–58	45,427	826	14,853	2,121	14·3	4·7	55 01	38·5
	1858–59	58,933	1,071	19,265	2,377	12·3	4·	55 01	43·2
	1859–60	62,956	1,058	23,054	2,943	12·7	4·6	59 41	49·4
	1860–61	77,252	1,300	30,889	3,977	12·9	5·1	59 41	66·8
	1861–62	82,821	1,392	32,107	5,000	15·5	6·	59 41	84·
	1862–63	91,491	1,538	33,487	5,674	16·9	6·2	59 41	95·3
	1863–64	95,802	1,610	33,536	7,239	21·6	7·5	59 41	121·6
	1864–65	93,830	1,577	25,208	7,036	27·9	7·5	59 41	118·2
	Eight years -	608,512	- -	212,399	36,367	- -	- -	467 08	—
	Average -	76,064	1,300	26,550	4,546	17·1	6·	58½	77·7
								Miles.	
Deeside - - - -	1856–57	10,802	665	2,798	551	20·	5·1	16¼	34·
	1857–58	12,364	761	3,238	712	22·	5·7	16¼	43·8
	1858–59	12,727	783	3,351	752	22·4	5·9	16¼	46·
	1859–60	13,007	800	3,351	669	19·9	5·1	16¼	41·2
	1860–61	14,233	876	3,500	693	19·8	4·8	16¼	43·
	1861–62	14,499	892	3,500	684	19·5	4·7	16¼	42·
	1862–63	15,024	924	3,124	743	23·8	4·9	16¼	43·7
	1863–64	15,349	944	3,652	838	23·	5·4	16¼	51·5
	1864–65	15,251	938	3,518	859	24·4	5·6	16¼	53·
		123,256	- -	30,032	6,501	- -	- -	146¼	—
	Average -	13,695	843	3,337	722	21·6	5·3	16¼	44·4
Peebles - - - -	1857–58	8,695	464	3,229	1,045	32·3	12·	18¾	55·7
	1858–59	9,936	530	2,961	893	30·1	9·	18¾	47·6
	1859–60	10,525	561	2,959	961	32·5	9·1	18¾	51·2
	1860–61	11,567	617	4,087	938	23·	8·1	18¾	50·
	1861–62	12,410	661	3,607	1,084	30·	8·8	18¾	57·8
		53,133	- -	16,843	4,921	- -	- -	93¾	—
	Average -	10,626	566	3,369	984	29·2	9·3	18¾	52·5
St. Andrew's, opened previous to 1855.	1855–56	3,182	707	1,595	285	17·8	9·	4½	63·3
	1856–57	3,302	727	1,100	330	30·	10·	4½	73·3
	1857–58	3,800	844	1,489	274	18·4	7·2	4½	61·
	1858–59	3,569	793	1,248	268	21·4	7·5	4½	59·5
	1859–60	3,403	756	1,125	317	28·2	9·3	4½	70·4
	1860–61	3,689	820	1,267	303	23·9	8·2	4½	67·3
	1861–62	3,610	802	1,267	395	31·	11·	4½	86·7
	1862–63	3,406	757	1,267	558	44·	16·	4½	124·
	1863–64	3,423	760	1,267	562	44·3	16·	4½	125·
	1864–65	3,604	801	1,267	437	34·5	12·	4½	97·
		34,988	- -	12,892	3,729	- -	- -	45	—
	Average -	3,499	766	1,289	373	29·	10·7	4½	83·
Crieff, opened 1856 - -	1857–58	5,043	560	1,436	394	27·4	7·8	9	44·
	1858–59	5,841	650	2,073	379	18·2	6·5	9	42·
	1859–60	5,406	600	1,885	319	16·9	5·9	9	35·4
	1860–61	5,740	638	2,124	432	20·3	7·5	9	48·
	1861–62	5,893	655	2,230	438	19·6	7·4	9	48·7
	1862–63	6,438	715	2,615	537	20·6	8·3	9	59·7
	1863–64	5,923	658	2,345	570	24·3	9·6	9	63·3
	1864–65	6,234	692	2,513	641	25·5	10·3	9	71·2
		46,518	- -	17,221	3,710	- -	- -	72	—
	Average -	5,815	646	2·153	464	21·5	8·	9	51·6
Alford Valley, opened 1859 -	1861–62	5,455	347	1,284	263	20·4	4·8	15¾	16·7
	1862–63	6,017	382	1,431	513	35·8	8·5	15¾	32·6
	1863–64	5,322	337	1,187	591	49·7	11·1	15¾	37·5
	1864–65	4,981	316	1,022	565	55·2	11·3	15¾	36·
		21,775	- -	4,924	1,932	- -	- -	63	—
	Average -	5,444	346	1,231	483	39·3	8·9	15¾	30·6

TABLE No. II.—Applicable to Railway Companies whose Lines of Railway are wholly Single Lines—*continued.*

NAME OF RAILWAY.	YEAR.	Gross Revenue.		VALUE.	Maintenance and Renewal of Way and Stations.				
		Total Amount.	Amount Per Mile of Extent.		Total Amount Expended.	Per-Centage		Miles Maintained.	Cost Per Mile.
						To Value.	To Receipts.		
		£.	£.	£.	£.			*Miles.*	
Perth Almond Valley, opened 1858.	1860-61	1,747	291	493	173	35·	9·9	6	29·
	1861-62	2,263	377	493	188	38·1	8·3	6	31·3
	1862-63	2,468	411	791	212	26·8	8·6	6	35·3
	1863-64	2,237	373	572	237	41·4	10·6	6	39·5
	1864-65	2,237	373	572	237	41·4	10·6	6	39·5
		10,952	- -	2,921	1,047	- -	- -	30	—
	Average -	2,190	365	584	209	35·8	9·9	6	34·8
Aberdeen and Turriff, opened 1858.	1859-60	7,272	409	969	318	32·8	4·3	17¾	18·
	1860-61	7,201	406	1,500	611	40·7	8·5	17¾	34·
	1861-62	7,220	407	2,062	823	40·0	11·4	17¾	46·
	1862-63	8,192	461	2,562	791	30·8	9·6	17¾	44·
	1863-64	8,355	470	2,674	793	29·6	9·5	17¾	44·
	1864-65	8,444	475	2,549	1,243	48·7	14·7	17¾	70·
		46,684	- -	12,316	4,579	- -	- -	106½	—
	Average -	7,781	438	2,053	763	37·1	9·8	17¾	41·6
Forth and Clyde Junction, opened 1856.	1858-59	14,632	487	3,766	1,426	37·8	9·7	30	47·
	1859-60	16,955	565	4,975	1,892	38·	11·1	30	63·
	1860-61	14,979	499	3,116	1,832	58·8	12·2	30	61·
	1861-62	13,103	437	2,316	1,833	78·5	14·	30	61·
	1862-63	13,752	458	2,646	1,842	69·6	13·4	30	61·
	1863-64	13,719	457	2,646	1,849	69·9	13·4	30	61·
	1864-65	14,090	469	2,706	1,857	68·6	13·1	30	62·
		101,230	- -	22,171	12,531	- -	- -	210	—
	Average -	14,461	482	3,167	1,790	56·5	12·4	30	59·7

(B.)

SECOND DIVISION.—6th April 1864.

[LORD KINLOCH. App. No. 1.

REPORT by GEORGE DODS, Assessor of Canals and Railways in Scotland, in suspension and interdict at the instance of

The EDINBURGH and GLASGOW RAILWAY COMPANY, Incorporated by Act of Parliament - - - - - - - - - - - *Suspenders.*

AGAINST

JOHN MILLER, Collector of Assessment for Relief of the Poor in the City Parish of Glasgow - - - - - - - - - - - - *Respondent.*

Edinburgh, 21st December 1860.—The Lord Ordinary having heard parties' procurators, and considered the Closed Record and whole process—before answer, remits to Mr. James Horne, civil engineer and land surveyor, to consider and report to the Lord Ordinary what amount of deduction is proper to be made from the valuation of the Suspenders' lands and heritages within the City Parish of Glasgow, in order to cover the probable annual average cost of the repairs, insurance, and other expenses, if any, necessary to maintain such lands and heritages in their actual state, and all rates, taxes, and public charges payable in respect of the same—the said report to be made *quam primum.*

(signed) *W. Penny.*

Note.—It appears to the Lord Ordinary (and he understood the parties to concur with him in this view) that the present was not a case for a proof at large on an issue or otherwise, but was proper for a remit before answer to a man of skill. In making up the report, regard will of course be had to the per-centage of deduction allowed on other

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other lands and heritages in the parish, and the applicability of this, or of a different per-centage to the property to which the remit directly applies.

(initialed) *W. P.*

14th December 1861.—Lord Kinloch—*Act.* Watson.—*Alt.* Thomson.—The Lord Ordinary continues the cause.

(signed) *W. Penny.*

17th July 1862.—Lord Kinloch—*Act.* Blackburn.—*Alt.* Thomson.—In respect it is stated Mr. Horne cannot undertake the remit contained in the interlocutor of 21st December 1860, of consent remits to Mr. George Dods, assessor of railways, Edinburgh, in room and place of Mr. Horne, to consider and report to the Lord Ordinary, in terms of the said interlocutor—said report to be made *quam primum.*

(signed) *W. Penny.*

REPORT by George Dods, Assessor of Canals and Railways in Scotland.

The reporter accepted of the remit by the Lord Ordinary contained in the foregoing interlocutors, and thereafter held several meetings with the agents for the parties, at which he received verbally considerable information as to the views held by them respectively on the questions at issue.

He, however, deemed it proper to have the views of parties expressed in writing, and, accordingly, in answer to orders for the same the suspenders, the Railway Company, lodged a statement of the deductions claimed by them from the valuation of their property within the City Parish of Glasgow, detailing the items thereof, which was answered by the parish, who also lodged statements showing their views as to the deductions which ought to be allowed.

The reporter has carefully considered the record in the process depending before the Lord Ordinary, and productions therein, and also the pleadings of parties before referred to, and other proceedings and productions in the remit. He has also had in view the information bearing on the matters at issue, which he himself possesses in his official capacity as assessor for railways and canals in Scotland. Having, as he conceived, obtained all needful information, and formed his opinions upon the matters at issue, the reporter of this date* issued to the parties full notes of the views which he was inclined to hold, with the view that if either of the parties objected to the principles upon which he proposed to base his report, they might have an opportunity of being heard. The Railway Company shortly afterwards intimated their acquiescence in his proposed findings. The parish, however, stated it was their intention to lodge objections, but have not done so; and recently intimated, that whilst they objected to the notes on the ground that they are in various respects based on wrong principles, they do not however deem it expedient to lodge a special note of objections, and to discuss these before the reporter, as they had been advised by the Board's counsel, that the objections, being on points of law, will more properly fall to be made in the Court of Session after the report has been lodged.

* 30 January 1864.

The reporter now therefore submits the following

Report.

The action proceeds upon a suspension of charges by the Respondents, the City Parish of Glasgow, against the Suspenders, the Edinburgh and Glasgow Railway Company, for the poor rates payable from the lands and heritages of the latter situated within the parish for the two years (first), from 15th May 1857 till 14th May 1858, and (second), from 15th May 1858 till 14th May 1859.

The pleas maintained by the Suspenders in support of their objections to these assessments, and the points with which the reporter has to deal under the remit, seem in effect to be as follows:—

First. What is the amount of deduction proper to be made from the valuation of the lands and heritages belonging to the railway company situated within the city parish to cover "the probable annual average cost of the repairs, insurance, and other expenses, if any, necessary to maintain such lands and heritages in their actual state, and all rates, taxes, and public charges payable in respect of the same," allowed as a deduction in terms of the Poor Law Act, 8 & 9 Vict. c. 83, s. 37?

Second. It being admitted, that in fixing the assessable value of the lands and heritages within the city parish, an overhead deduction of 20 per cent. is allowed from the gross rental without reference to the nature of the subject: Whether this allowance of 20 per cent. is excessive as regards some one or more classes of the lands and heritages within the parish, and beyond a proper deduction for the probable annual average cost necessary to maintain these in their actual state, and all rates, &c., in terms of the section of the Poor Law Act before referred to, so as to impose on the railway company an undue amount of assessment? and

Third. Whether the above deduction of 20 per cent. or a different per-centage is applicable to the lands and heritages within the parish belonging to the railway company?

In considering these questions, whilst the reporter has carefully kept in view the pleadings of the parties, and relative statements both in the process and in the proceedings under the remit, and has given due weight to these, he has yet found it necessary to revert very much to the data afforded by the railway company's printed reports and relative accounts, which, for a period of years, are in process, and others of which are in his own possession, and to his own annual valuations of the Suspenders' undertaking. The reporter is of opinion that the questions raised by the remit cannot be subjected to the test of actual figures during the years in question, but he thinks that the justice of the case will be sufficiently met by applying the results of averages to these years, and, indeed, that in no other way could a solution of these questions be arrived at. He has the reports and other data for the years 1852–3, and 1863–4, and intervening years, and thinks that the 12 financial years embraced in this period afford important, if not conclusive, data for his judging of the questions at issue for the two years forming the actual period of inquiry.

The

The railway company claim deductions amounting in proportion to the total valuation of the railway for the year 1855, to 64⅓ per cent.; for the year 1856, to 77¾ per cent.; for the year 1857, to 77½ per cent.; for the year 1858, to 67 per cent.; and for the year 1859, to 44 per cent. The reporter sees objections to many of the items of these proposed deductions, and on the other hand, he sees objections to the deductions which the Respondents propose to allow.

The reporter does not think it necessary to enter upon a special consideration of the claims of the parties respectively to which these objections apply, but will content himself with referring to the items of the deductions claimed by the Suspenders, which he proposes to allow as proper deductions in terms of the first point of inquiry before mentioned.

First.—Maintenance and Renewal of Way.

The item of deduction under the head of Maintenance of Way is, at least to a reasonable amount, no doubt a proper deduction, and is not objected to. But the Respondents object to the claim under the head of Renewal of Way on various grounds, and seem not to admit it as a valid deduction to any extent. Were this objection well founded, and a distinction therefore necessarily to be made between expenditure for maintenance, strictly so called, and renewal of way, a question of very great nicety and importance would arise. It would be very difficult to make such a distinction, and to fix the exact point where the one terminates and the other begins. From the printed reports of the railway company, before referred to, it appears that in several of the years embraced therein there were extensive repairs and renewals (in some years to the extent of several miles), the expense of which was charged partly to revenue as "Maintenance of Way," and partly to "Permanent Way Renewal Fund." Without farther information and investigation, the reporter is not satisfied of the accuracy of the division so made, and any new one made by himself might necessitate a very considerable deduction from the sums charged for maintenance of way, as including the cost of renewal. But the reporter conceives that, under the terms of the 37th section of the Poor Law Act, an allowance for renewal as well as for maintenance must be made as "necessary to maintain the lands and heritages in their actual state;" and if he had any doubt on this point, the decision in the recent case of the Glasgow Gaslight Company *v.* Adamson* would seem to rule that such deduction must be allowed. If the reporter be correct in this view, then it seems immaterial under which head the expenditure appears; as any sum to be deducted from charges for maintenance of way, as being actually for renewal, would fall to be added to that item, and the average of the *cumulo* expenditure would not be affected. The reporter would, in dealing in this report with the amounts of the expenditure under each of these heads, prefer to allow the figures to stand, as given up by the Company in their annual printed reports.

* 23 March 1863.

The reporter finds the amounts, during the twelve years before referred to, entered in the reports of the railway company, of (1.) the sums charged for maintenance of way, which, by request of the Respondents, he has subdivided so far as applicable to maintenance of the way generally, and maintenance and repairs of the stations, warehouses, workshops, and other buildings (including on the latter the cost of maintenance of the sidings, rails, switches of the way, and turntables, weighing machines, &c., at the stations, as well as repairs on the buildings); and (2.) the sums charged to Permanent Way Renewal Fund, are as under; the gross valuation of the railway for each of these years (also subdivided so far as applicable to the lines and stations respectively) being also included in the following

STATEMENT.

YEAR.	Maintenance		Renewal.	Total of Maintenance and Renewal.	Valuation		
	Of Way.	Of Stations.			Of Railway.	Of Stations.	TOTAL.
	£.	£.	£.	£.	£.	£.	£.
1852–53 - - -	11,722	748	3,450	15,920	57,872	5,450	63,322
1853–54 - - -	11,603	867	935	13,405	66,823	5,450	72,273
1854–55 - - -	10,714	1,756	2,390	14,860	62,704	5,450	68,154
1855–56 - - -	10,978	1,492	3,490	15,960	72,147	5,450	77,597
1856–57 - - -	10,927	1,200	7,733	19,860	61,829	6,186	68,015
1857–58 - - -	12,321	2,115	10,223	24,659	60,935	6,486	67,421
1858–59 - - -	13,778	1,036	3,413	18,227	74,854	7,363	82,217
1859–60 - - -	15,417	1,973	4,885	22,275	105,253	8,346	113,599
1860–61 - - -	16,417	1,790	8,195	26,402	119,154	8,832	127,986
1861–62 - - -	21,103	1,897	2,406	25,406	129,733	9,249	138,982
1862–63 - - -	19,239	3,761	10,874	33,874	109,773	9,618	119,391
1863–64 - - -	23,407	3,577	20,687	47,671	112,022	10,260	122,282
TOTAL - - - £.	177,626	22,212	78,681	278,519	1,033,099	88,140	1,121,239

Contrasting the total amount expended for maintenance and renewal of way, amounting, as above shown, to 278,519 *l.* for the 12 years above referred to, with the gross amount of annual valuation for the same period, amounting, as also above shown, to 1,121,239 *l.*, the proportion which the former bears to the valuation is 24·85 per cent., which the reporter considers a deduction proper to be made (on the basis of actual expenditure already made), in terms of the Poor Law Act,

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Act, from the gross valuation of the Suspenders' lands and heritages within the city parish, under the heads of Maintenance and Renewal.

Second.—Insurance.

The Respondents admit that the Suspenders are entitled to a deduction under this head, but dispute the amount.

Insurance is, of course, necessary only on the buildings belonging to the company; and from inquiries the reporter has made, and otherwise, he is satisfied that 0·50 per cent. on the amount of the gross valuation of the whole undertaking, before stated, would cover this item of deduction, which amount he considers a farther proper deduction.

Third.—Rates, Taxes, &c.

The reporter finds that the payments entered in the yearly reports, for the 12 years referred to, amount to 64,800 *l.*, which, contrasted with the amount of valuation for the same period before stated, gives a per-centage of 5·8 as the annual taxation payable by the railway company.

But as the reporter has, in his capacity of assessor of railways, &c., already allowed one-half of this amount to the railway company from his valuation on them as occupants, the remaining half only will fall to be now allowed. The reporter, therefore, considers that a farther deduction under this head should be allowed of 2·90 per cent. of the valuation, said per-centage including all assessments other than property and income tax, and in particular, a deduction for poor rates, which the Respondents object to, but to which the claimants seem entitled, in terms of the decision in the case of The Glasgow Gaslight Company *v.* Adamson, before referred to.

Fourth.—Maintenance of the Union Canal.

The printed reports of the railway company before referred to do not afford data to enable the reporter to ascertain, as in the case of the foregoing items of deductions, the actual expenditure under this head during the whole 12 years before referred to, because the earlier reports and relative accounts during that period make no proper distinction between the cost of conducting the traffic on the canal and the expense of maintaining it, its reservoirs, locks, and towing-paths, &c. But since 1857 the reporter has procured from the company detailed accounts of their expenditure under this head. These accounts, which substantially agree with the amounts stated in the printed reports, show the amount of the gross actual cost of maintenance, for the seven years from 1857 to 1864, to have been as follows, viz.:—

	£.
1857–8	1,305
1858–9	1,475
1859–60	1,530
1860–1	1,331
1861–2	1,886
1862–3	1,791
1863–4	1,916
	11,234

or 1,605 *l.* per annum.

Assuming this as an average expenditure in maintenance of the canal (and this the reporter has no reason to doubt), then the gross expenditure under this head, for the 12 years from 1852–3 to 1863–4, would be 19,260 *l.*, which, contrasted with the total valuation of these 12 years before stated, gives an average cost of maintenance of the canal of 1·70 per cent., which the reporter considers a farther proper deduction.

Fifth.—Maintenance of the Glasgow Incline.

In consonance with the reasons which the reporter has given for his proposed allowance of the claim for renewal of way, he considers this item also a legitimate deduction.

He finds, from the printed reports, &c., that the gross outlay under this head, for the 12 years referred to, amounted to 17,628 *l.*, which, contrasted with the total valuation for the same period before shown, gives an average per annum of cost of maintenance of the incline of 1·55 per cent., which the reporter considers to be a farther proper deduction.

Under the first point for inquiry before set forth, the reporter therefore reports to the Lord Ordinary, that he considers the following deductions should be allowed from the valuation of the lands and heritages of the railway company within the city parish of Glasgow, for the years 1857–8 and 1858–9, to which the action applies, viz.:—

	Per Cent.
1. Maintenance and renewal of way	24·85
2. For insurance	0·50
3. For rates, taxes, &c.	2·90
4. For maintenance of canal	1·70
5. For maintenance of incline	1·55
	31·50

The above calculations are, it will be observed, based upon the actual expenditure of the railway company as appearing in their printed reports, which substantially agree with the states supplied to the reporter as assessor of railways, &c., and are calculated upon an average of 12 years only. But they do not, in the reporter's opinion, embrace a total renewal of the works of the suspenders.

The "life" of a railway such as that of the Suspenders—that is, the period within which (in addition to the ordinary maintenance and repair), a total renewal of the work should be effected, in order to keep it in a state to command the rent—is variously estimated by practical engineers at from 12 to 16 years. Assuming this extreme period of 16 years as the period of endurance of the Suspenders' line, for which assumption the reporter will immediately state his reasons, it appears from calculation that the extent which should have been renewed, during the 12 years to which the averages apply, is about 78 miles. But from the printed reports and other data in the reporter's possession, not over 50 miles seem to have been so renewed during that period, and the expense thereof included in the sums before allowed. There will, therefore, be thrown on the railway company a much heavier charge for renewal during the remaining period of the 16 years, till the renewal of the entire line is completed, and which increased renewal is now going on, as is shown by the larger sums expended under this head during the last two years.

The

The principal reason which has led the reporter to assume 16 years as the "life" of the suspenders' subject, is founded on the experience of the Scottish Central Railway Company, whose line, having been opened in May 1848, has now been in operation for nearly 16 years, and is similarly circumstanced to that of the suspenders in regard both to the nature and amount of traffic. In addition to the ordinary maintenance and tear and wear of that line, a total renewal has been going on for the last few years, and by Midsummer of 1864 (exactly 16 years from its being opened), the reporter is informed the renewal will have been completed from end to end. This case is so exactly in point, that the reporter deems it right to refer to it specially, although, from the increased speed now run by trains, and the greatly increased weight of locomotives used, it is not expected that the line, as now renewed, will "live" other 16 years.

The reporter also finds that no renewals have ever been made (and consequently there are no charges for expenditure therefor), of the wooden bridges over the Forth and Devon, and other rivers on the Stirling and Dunfermline line, and over roads on any of the suspenders' different lines. Nor have any considerable renewals been made during the 12 years from which the averages are taken of the bridges, lock-gates, and reservoirs of the Union Canal. In like manner, no allowances have ever been made for any renewal of the large fixed machinery in the new workshops at Cowlairs.

Besides, there are items of extraordinary outlay for renewal, which the period taken does not embrace, which the reporter does not think it necessary to particularise.

Upon these grounds, and calculations based upon them, the reporter is of opinion that over and above specific deductions, amounting as above, *in cumulo*, to 31·50 per cent., a farther deduction of 5 per cent. should be allowed (these amounting together to 36·50 per cent.), which therefore he now reports to the Lord Ordinary as the per-centage required to cover all the deductions contemplated by the 37th section of the Poor Law Act, in terms of the first point for inquiry stated at the outset.

If the view above reported, as to the amount of deductions which should be allowed to the railway company, be correct, the reporter falls also to report that the 20 per cent. allowed by the parish on all lands and heritages within the parish, is not applicable to those of the railway company, which satisfies the third point of inquiry before mentioned.

The reporter will now advert to the second point embraced in the remit before mentioned.

He feels this to be a very important point indeed, not only to the parties to the present process, but to other parishes and railway companies, as well as to the public at large, and he has anxiously considered it from every point of view, and availed himself of every means in his power for procuring the fullest and most reliable information which would guide him to a proper solution of it. In dealing with this question also, the reporter has adopted the principle of averages, and as it seemed to him immaterial what year was selected, he took that of 1862-3, the necessary information during which could be most easily obtained. The gross rental of that year within the city parish of Glasgow, as furnished by the collector, amounted, with supplement, to 715,287 *l.*

The reporter first proceeded, with the assistance of the assessors of property and income-tax for the city of Glasgow and county of Lanark, to classify the different properties in the city parish, and to ascertain the gross amount of rental applicable to each, and, in concert with these gentlemen, adopted the following classification, and ascertained the rentals applicable to each to be as follows:— App. No. 1.

	Rental. £.
I. First-class properties, consisting of self-contained lodgings and first-class shops, warehouses, counting-houses, including banks, insurance offices, &c. -	158,500
II. Second-class house property, consisting of the best flats, and second-class and all other shops - - - - - -	277,000
III. Third-class house property, consisting of the best class of tradesmen's houses and houses of two, three, and four rooms and kitchen - - - -	103,000
IV. Lowest description of house property - - - - - -	109,000
V. Public works and subjects not included in any of above classes - - - - - -	40,000
VI. Mines - - - - - -	500
VII. Agricultural lands - - -	1,000
	689,000
VIII. Subjects valued by reporter -	24,340
	£. 713,340

The reporter may observe, that the gentlemen to whom he is about to refer concurred in the above classification, as showing, with sufficient minuteness for all practical purposes in a question such as the present, the different classes of property, the cost of maintenance, taxes, and other deductions, upon which, contemplated by the 37th section of the Poor Law Act, would materially differ in amount.

Having procured the above information, the reporter then proceeded to make inquiry as to the probable annual average cost of the repairs, insurance, and other expenses necessary to maintain, and the rates, taxes, and public charges payable in respect of, the different classes of property within the parish as above set forth.

In particular, he put himself in communication with three well-known house factors in Glasgow, who were recommended to him as being, from their connection with the subject, most likely to give him authoritative information. He accordingly met them, and received their views on the different points, these being supported more or less by data which they laid before him. The views of these gentlemen coincided very much with those which the reporter had previously formed from the other inquiries he had made, and from his own knowledge of the subject, and subsequent inquiries have tended to confirm the correctness of their opinions.

As the result of all these inquiries, the reporter is of opinion that the several items of deduction

App. No. 1.

which ought to be allowed from the rentals of each of the different classes of property before set forth, are as mentioned in the following tabular statement, which shows also the rentals of the subjects included in these different classes, and the gross amount of deduction effeiring to each class, calculated upon the rentals respectively :—

Table of Rentals, Deductions, &c.

CLASSES.	Gross Rent or Value.	Deductions per Cent.				Total Amount of Deductions.
		Repairs.	Taxes.	Insurance.	Total.	
	£.					£. s. d.
1. First-class house and shop property.	158,500	6	4½	2	12½	19,812 10 –
2. Second-class house and all other shops.	277,000	12	4½	2½	19	52,630 – –
3. Third-class house property -	103,000	15	4½	3	22½	23,175 – –
4. Lowest description of house property.	109,000	15	4½	3	22½	24,525 – –
5. Public works and subjects not included in any of above classes.	40,000	10	4½	3	17½	7,000 – –
6. Mines - - - - -	500	5	4½	- -	9½	47 10 –
7. Agricultural land - - -	1,000	2½	4½	- -	7	70 – –
	689,000				£.	127,260 – –
8. Subjects valued by reporter -	24,340					
Total - - - £.	713,340					

Average, 18·47 per cent.

The reporter has, for obvious reasons, made no estimate in the above statement of the deductions which should be allowed from the rental or valuation of subjects included in his own valuation roll, but, considering the very large amount of rental or valuation on which the calculations in the statement are based, and the comparatively trifling amount of rental of these other subjects, he does not think that this omission, to any practical extent, affects the conclusion he is induced to deduce from above data.

From these it appears that the overhead allowance of 20 per cent. on all other classes of property exceeds by 1·53 the per-centage necessary to meet the deductions contemplated by the 37th section of the Poor Law Act. Having regard, therefore, to this excessive allowance, and to bring the suspenders' property into the same circumstances as regards the deductions from the gross value, they must be allowed not only the 36·50 per cent., the actual outlay necessary for maintenance and reproduction, &c., as before shown, but also this 1·53 per cent., being the amount of the 20 per cent. allowed to proprietors of other classes of subjects in the parish, beyond what is necessary to keep them in repair.

The total deductions proper to be made from the valuation of the suspenders' lands and heritages within the city parish of Glasgow, in order to cover the probable annual average cost of repairs, insurance, and other expenses necessary to maintain such lands and heritages in their actual state, and all rates, taxes, and public charges payable in respect of the same, is therefore 38·03, or say 38 per cent. on the amount of the valuation for the years in question; and the reporter therefore reports to the Lord Ordinary, that in his opinion this deduction of 38 per cent. should be allowed accordingly.

All which is humbly reported by

G. Dods.

16, Duke-street, Edinburgh,
6 April 1864.

Appendix, No. 2.

PAPER handed in by Mr. *William Bennett*, 27 March 1865.

TABLES 3 and 4 show Comparative and General Average of, 1st. Gross Revenue; 2d. Assessor's Valuation; 3d. Cost of Maintenance and Renewal of Ways and Stations; and, 4th. Number of Miles maintained of Railways in Tables 1 and 2, reduced to the Per-centage which the General Average Maintenance and Renewal bear to, 1st. General Average Gross Revenue; and, 2d. To General Average Valuation, the Cost of General Average Maintenance per Mile per Annum, and General Average Gross Revenue per Mile per Annum.

TABLE 3.—DOUBLE LINES.

NAME OF RAILWAYS.	Average Number of Years.	Gross Revenue.		Values.	Maintenance and Renewal of Way and Stations.				
		Total Amounts.	Amount per Mile of Extent.		Total Amount Expended.	Per-Centage.		Number of Miles Maintained.	Cost per Mile.
						To Value.	To Receipts.		
		£.	£.	£.	£.				
Caledonian - - -	10 years	704,341	3,295	280,820	61,412	21·8	8·7	213¾	287·3
Glasgow and South Western - - - -	„	370,487	1,892	149,097	44,562	29·9	12·	195¾	227·6
Scottish North Eastern, including Dundee and Arbroath - - -	„	223,201	1,703	77,228	17,471	22·6	7·8	131	133·3
Scottish Central, including Dundee and Perth	„	202,323	2,662	63,177	16,874	26·7	8·3	76	222·
Edinburgh and Glasgow (32 miles of Canal) -	„	306,276	2,136	106,908	29,794	28·	9·4	143⅓	208·
Edinburgh, Perth, and Dundee (5½ miles of Ferries) - - -	8 years	175,919	2,227	34,687	13,002	37·4	7·4	79	164·6
Eight Railways - - -		1,982,547	- -	711,917	183,115	–	–	839	–
GENERAL AVERAGE - - -		247,818	2,360	88,989	22,889	25·7	9·2	104·9	218·

TABLE 4.—SINGLE LINES.

Great North of Scotland	8 years	76,064	1,300	26,550	4,546	17·1	6·	58½	77·7
Deeside - - -	9 „	13,695	843	3,337	722	21·6	5·3	16½	44·4
Peebles - - -	5 „	10,626	566	3,369	984	29·2	9·3	18¾	52·5
St. Andrews - -	10 „	3,499	766	1,289	373	29·	10·7	4½	83·
Crieff - - - -	8 „	5,815	646	2,153	464	21·5	8·	9·	51·6
Alford Valley - -	4 „	5,444	346	1,231	483	39·3	8·9	15¾	30·6
Perth and Almond Valley - - - -	5 „	2,190	365	584	209	35·8	9·9	6·	34·8
Aberdeen and Turriff -	6 „	7,781	438	2,053	763	37·1	9·8	17¾	41·6
Forth and Clyde - -	7 „	14,461	482	3,167	1,790	56·5	12·4	30·	59·7
Nine Railways - - -		139,575	- -	43,733	10,334	–	–	176½	–
GENERAL AVERAGE - - -		15,508	795	4,859	1,148	23·6	7·4	19½	58·9

TABLES 5 and 6 show the Amount which each of the Railways in Tables 3 and 4 would receive for Maintenance and Renewal if Deduction were estimated, 1st, on Own Average per Cent. of Value, and on General Average per Cent.; 2d, on Own Average per Cent. of Gross Revenue and on General Average per Cent.; 3d, on Own Average Cost of Maintenance per Mile and on General Average Cost per Mile, compared with the Sums actually expended by each for Maintenance, Year 1864-5.

TABLE 5.—DOUBLE LINES.

NAME OF RAILWAY.	Assessor's Value.		Gross Revenue.		Miles Maintained.		
	Sum if estimated on Own Average Per-centage.	Sum if estimated on General Average Per-centage.	Sum if estimated on Own Average Per-centage.	Sum if estimated on General Average Per-centage.	Sum if estimated on Own Average of Cost per Mile.	Sum if estimated on General Average of Cost per Mile.	
	£.	£.	£.	£.	£.	£.	
		95,731	- -	81,273	- -	50,851	
Caledonian - - - -	77,294	91,122	75,220	79,543	69,239	52,538	
Sum actually expended, 1864-5	95,090	95,090	95,090	95,090	95,090	95,090	
Loss - - -	17,796	3,968	19,870	15,547	25,851	42,552	
		51,094	- -	42,032	- -	42,727	
Glasgow and South Western -	56,582	48,634	53,659	41,138	46,088	44,145	
Sum actually expended, 1864-5	71,457	71,457	71,457	71,457	71,457	71,457	
Loss - - -	14,875	22,823	17,798	30,319	25,369	27,312	
		26,470	- -	24,397	- -	27,852	
Scottish North Eastern and Dundee and Arbroath - -	22,157	25,196	20,244	23,878	17,595	28,776	
Sum expended, 1864-5 - -	31,723	31,723	31,723	31,723	31,723	31,723	
Loss - - -	9,566	6,527	11,479	7,845	14,128	2,947	
		21,171	- -	22,654	- -	16,352	
Scottish Central, including Dundee and Perth - - -	20,936	20,152	20,003	22,172	17,205	16,895	Opened 1848.
Sum expended, 1864-5 - -	34,425	34,425	34,425	34,425	34,425	34,425	
Loss - - -	13,489	14,273	14,422	12,253	17,220	17,530	
		40,939	- -	38,619	- -	36,714	
Edinburgh and Glasgow - -	42,446	38,959	38,619	37,797	36,192	37,932	
Sum expended, 1864-5 - -	39,437	39,437	39,437	39,437	39,437	39,437	
Loss - - -	- -	478	818	1,640	3,245	1,505	
Gain - - -	3,009	—	—	—	—	—	
		11,861	- -	18,507	- -	17,935	
Edinburgh, Perth, and Dundee	16,430	11,290	14,569	18,113	13,991	18,530	Opened 1848.
Sum expended, 1862-3 - -	16,004	16,004	16,004	16,004	16,004	16,004	
Loss - - -	- -	4,714	1,435	- -	2,013	—	
Gain - - -	426	- -	- -	2,109	- -	2,526	
		42,386	- -	58,479	- -	82,712	
North British, including Edinburgh, Perth, and Dundee -	59,026	40,345	59,102	57,235	68,992	85,456	
Sum expended - - -	66,897	66,897	66,897	66,897	66,897	66,897	
Loss - - -	7,871	26,552	7,795	9,662	—	—	
Gain - - -	- -	- -	- -	- -	2,095	18,559	

TABLE 6.—SINGLE LINES.

NAME OF RAILWAYS.	Assessor's Value.		Gross Revenue.		Miles Maintained.		——
	Sum if estimated on Own Average Per-centage.	Sum if estimated on General Average Per-centage.	Sum if estimated on Own Average Per-centage.	Sum if estimated on General Average Per-centage.	Sum if estimated on Own Average of Cost per Mile.	Sum if estimated on General Average of Cost per Mile.	
	£.	£.	£.	£.	£.	£.	
Great North of Scotland	4,310	5,949	5,630	6,943	4,622	3,499	Opened 1854.
Sum expended, 1864–65	7,036	7,036	7,036	7,036	7,036	7,036	
Loss	2,726	1,089	1,406	93	2,414	3,537	
Deeside	760	830	808	1,128	721	956	Opened 1854.
Sum expended, 1864–65	859	859	859	859	859	859	
Loss	99	29	51	- -	138	—	
Gain	- -	- -	- -	269	- -	97	
Peebles	1,053	851	1,154	918	984	1,103	Opened 1855.
Sum expended, 1861–62	1,084	1,084	1,084	1,084	1,084	1,084	
Loss	31	233	- -	166	100	—	
Gain	- -	- -	70	- -	- -	19	
St. Andrews	367	299	385	266	394	279	Opened previous to 1855.
Sum expended, 1864–65	437	437	437	437	437	437	
Loss	70	138	52	171	43	158	
Crieff	540	593	499	461	464	530	Opened 1856.
Sum expended, 1864–65	641	641	641	641	641	641	
Loss	101	48	142	180	177	111	
Alford Valley	401	241	441	368	481	926	Opened 1859.
Sum expended, 1864–65	565	565	565	565	565	565	
Loss	164	324	124	197	84	—	
Gain	- -	- -	- -	- -	- -	361	
Perth and Almond Valley	204	135	221	165	209	353	Opened 1858.
Sum expended, 1864–65	237	237	237	237	237	237	
Loss	33	102	16	72	28	—	
Gain	- -	- -	- -	- -	- -	116	
Aberdeen and Turriff	945	601	827	624	738	1,044	Opened 1858.
Sum expended, 1864–65	1,243	1,243	1,243	1,243	1,243	1,243	
Loss	298	642	416	619	505	199	
Forth and Clyde Junction	1,529	638	1,747	1,042	1,791	1,767	Opened 1856.
Sum expended, 1864–65	1,857	1,857	1,857	1,857	1,857	1,857	
Loss	328	1,219	110	815	65	90	

Appendix, No. 3.

App. No. 3. PAPERS handed in by Mr. *W. J. Menzies*, 30 March 1865.

(A.)

SCHEDULE showing the VALUE of WATER-POWER in different parts of *Scotland.*

In Aberdeenshire water-power is valued at less than 3 *l.* per horse-power.
In the immediate vicinity of Dundee it is valued at 4 *l.*
At Blairgowrie it lets at 1 *l.* 1 *s.* per horse-power.
At Brechin at 1 *l.* 2*s.*
At Logie at 1 *l.* 2*s.*
On the Leven it lets at 3 *l.* per horse-power.

A number of valuations of mills at Galashiels was made some time ago, in which the water-power was valued as worth 60 *l.* per horse-power. This at 5 *l.* per cent. gives 3 *l.* as the annual value.

The Shaws Water Company at Greenock, in the immediate vicinity of a large port, constructed works for the purpose of supplying water-power. The falls were let to the best advantage, and realised rents averaging 2 *l.* 19 *s.* 2½ *d.* per horse-power.

In the county of Midlothian there are mills possessing water-power in which the total rent of the power, and houses and machinery, is only 3 *l.* 12 *s.* 6 *d.* per available horse-power.

A mill in the vicinity of Aberdeen, which has an available power of 42 horses, and buildings and machinery, valued by an eminent engineer at 3,000 *l.*, has lately been let for 175 *l.*, being 6 per cent on the value of the buildings, without anything whatever for the water-power. This mill was for many months advertised to let.

(B.)

VALUATION of VALLEYFIELD MILLS by the Assessor of the County of *Midlothian.*

	£. s. d.	£. s. d.
BANK MILL		
Water-power, 10 horses, at 7*l.*	70 – –	
Steam-power, 45 horses, at 20 *l.* = 900 *l.*, at 7½ per cent.	67 10 –	
Driving gear, 230 *l.*, at 7½ per cent.	17 5 –	
Flooring in houses, 641 square yards, at 2 *s.* per square yard	64 2 –	
Flooring in sheds, 364 square yards, at 1 *s.* 6*d.* per square yard	27 6 –	
		246 3 –
LOW MILL.		
Water-power, 13 horses, at 7 *l.*	91 – –	
Steam-power, 36 horses, at 20 *l.* = 720 *l.*, at 7½ per cent.	54 – –	
Driving gear, 200 *l.*, at 7½ per cent.	15 – –	
Flooring in houses, 655 square yards, at 2 *s.* per square yard	65 10 –	
Flooring in sheds, 100 square yards, at 1 *s.* 6 *d.* per square yard	7 10 –	
		233 – –
VALLEYFIELD MILL.		
Water-power, 23 horses, at 7 *l.*	161 – –	
Steam-power, 175 horses, at 20 *l.* = 3,500 *l.*, at 7½ per cent.	262 10 –	
Driving gear, including gas-work, 1,465 *l.*, at 7½ per cent.	109 17 6	
Flooring in houses, 6,031 square yards, at 2 *s.* per square yard	603 2 –	
Flooring in sheds, 1,012 square yards, at 1*s.* 6*d.* per square yard	75 18 –	
		1,212 7 6
HOUSES.		
House occupied by Mr. Charles Cowan, garden, &c.	40 – –	
House occupied by Mr. John Cowan, garden, &c.	25 – –	
House occupied by Mr. Chalmers, garden, &c.	15 – –	
Six houses occupied by managers' clerks, &c.	38 – –	
Gardener's house	4 – –	
43 workmen's houses under 4 *l.* each, of yearly value	128 – –	
		250 – –
	£.	1,941 10 6

App. No. 3.

(C.)

ASSESSOR'S Valuation of *Kate's Mill*, when let on long Lease.

			Annual Estimated Value.
			£. s. d.
Dwelling-houses of tenant, foreman, and workers			50 – –
Steam-power, 28 horse-power, at 20 *l.* cost = £. 560, at 72 per cent.	£. 42 – –		—
Driving gear and gas-work	312, at 72 per cent.	23 8 –	65 8 –
	£. 872		
Water-power, 12 horse-power, at 7 *l.* per (includes wheel)			84 – –
Area of flooring (789 yards at 2 *s.*, and 789 yards at 1 *s.* 6 *d.*) = 1,578 yards at 1 *s.* 9 *d.*			138 1 6
		£.	337 9 6

RENT Paid to Landlord on a Lease of Nineteen Years.

		£. s. d.
Rent per 19 years lease		200 – –
But deduct additional lands not formerly let, and not included in assessor's valuation		40 – –
	£.	160 – –
Add, steam-power, as above, which is not included in lease		65 8 –
	£.	225 8 –

Appendix, No. 4.

PAPER handed in by Mr. *Robert Readman*, 30 March 1865.

STATEMENT of COUNTY, PAROCHIAL, and BURGH ASSESSMENTS levied on the Company of Proprietors of the *Forth* and *Clyde* Navigation for the Year 1864–1865.

DESCRIPTION.	Amount of Valuation of Canal.	Per-centage of Deduction Allowed to					Amount of Canal Valuation Assessed on.	Amount of Canal Assessment.	RATE PER £. CHARGED ON											
		Canal Valuation.	Land.	Houses	Public Works.	Mines.			Canal Valuation.		Land.		Houses.		Public Works.		Bank Offices.		Writers' Offices.	
									Owners.	Occupants.	Owners.	Occupants.	Owners.	Occupants.	Owners.	Occupants.	Owners.	Occupants.	Owners.	Occupants.
	£. s. d.	*per cent.*	*per cent.*	*per cent.*	*per cent.*	*per cent.*	£. s. d.	£. s. d.	p' £. s. d.	p' £. s. d.	p' £. s. d.	p' £. s. d.	p' £. s. d.	p' £. s. d.	p' £. s. d.	p' £. s. d.	p' £. s. d.	p' £. s. d.	p' £. s. d.	p' £. s. d.
COUNTY RATES:																				
Lanarkshire, Police, Prison, &c.	25,294 8 –	nil	—	—	—	—	25,294 8 –	358 14 –	– 3¼ and – 4½	—	—	—	—	—	—	—	—	—	—	—
Dumbartonshire	19,113 19 6	nil	—	—	—	—	19,113 19 6	238 18 6	– 3	—	—	—	—	—	—	—	—	—	—	—
Stirlingshire	15,679 14 4	15	—	—	—	—	13,536 4 –	175 4 3	– 3¼	—	—	—	—	—	—	—	—	—	—	—
PAROCHIAL RATES:																				
Barony parish of Glasgow poor rates	11,242 2 –	20	20	20	20	—	8,993 13 8	629 11 2	7 p' ct.	—	—	—	—	—	—	—	—	—	—	—
Bothkennar parish, poor rates	3,444 14 –	30	10	20	—	30	2,404 – –	90 3 2	– 4	– 4¾	– 4	– 2	– 4	– 8	– 4	– 4¾	—	—	—	—
Bothwell parish, poor rates	213 16 –	25	10	15	15	25	160 7 –	8 – 6	– 6	– 6	—	—	—	—	—	—	—	—	—	—
Covan parish, poor rates	273 4 –	12½	12½	12½	12½	—	239 1 –	9 – –	3½ p' ct.	– 1	3½ p' ct.	– 1	3½ p' ct.	– 1	3½ p' ct.	1 –	—	—	—	—
Cadder parish, poor rates	3,760 13 –	35	25	25	25	25	2,356 – –	65 16 3	– 3½	– 3½	—	—	—	—	—	—	—	—	—	—
City parish of Glasgow, poor rates	3,149 5 –	20	20	20	20	—	2,519 8 –	191 6 4	– 9	– 9	—	—	—	—	—	—	—	—	—	—
Cumbernauld parish, poor rates	4,440 12 –	30	15	—	—	—	3,108 – –	155 8 –	– 5½	– 5½	—	—	—	—	—	—	—	—	—	—
Falkirk parish, poor rates	11,347 15 –	24	—	—	—	—	8,624 – –	467 2 8	– 7	– 6	– 7	– 4	– 7	– 1	– 7	– 6	—	—	—	—
Kilsyth parish, poor rates	558 – –	10	—	—	—	—	503 – –	57 13 3	1 5	—	—	—	—	—	—	—	—	—	—	—
Kirkintulloch parish, poor rates	5,243 3 –	28	12½	20	—	—	3,775 – –	393 4 7	– 11	1 –	– 11	– 5	– 11	1 4	– 11	1 –	– 11	2 8	– 11	1 8
Newkilpatrick parish, eight months' poor rates	3,691 13 –	25	12½	—	25	—	2,768 – –	100 18 10	– 4½	– 4	—	—	—	—	—	—	—	—	—	—
Old Kilpatrick parish, poor rates	5,738 11 6	25	—	—	—	—	4,304 – –	304 17 4	– 7	– 9	– 7	– 5½	– 7	1 –½	– 7	– 9	—	—	—	—
Old Monkland parish, poor rates	9,331 1 –	25	12½	—	—	—	6,998 – –	349 18 6	5 p' ct.	—	—	—	—	—	—	—	—	—	—	—
New Monkland parish, poor rates	489 – –	25	—	—	—	—	367 – –	33 12 10	1 10	–	1 10	–	1 10	–	1 10	—	—	—	—	—
Polmont parish, poor rates	1,680 – –	30	—	—	—	—	1,176 – –	95 11 –	– 10	– 9	– 10	– 6	– 10	1 6	– 10	– 9	—	—	—	—
Slamannan parish, poor rates	39 – –	5	—	—	—	—	37 – –	1 1 –	–	—	—	—	—	—	—	—	—	—	—	—
Shotts parish, poor rates	1,065 – –	25	10	15	15	—	798 10 –	28 5 9	– 8½	–	– 8½	–	– 8½	–	– 8½	–	—	—	—	—
BURGH RATES:																				
Glasgow police	Full station value, and one-fourth value of line					—	3,526 10 –	289 19 5	1 –	—	—	—	—	—	—	—	—	—	—	—
Glasgow statute harbour						—	3,526 10 –		– 3	—	—	—	—	—	—	—	—	—	—	—
Glasgow parks and galleries						—	3,526 10 –		– 2	—	—	—	—	—	—	—	—	—	—	—
Glasgow prison						—	3,588 – –		– 1 11/16	—	—	—	—	—	—	—	—	—	—	—
Glasgow houses of refuge						—			– 1	—	—	—	—	—	—	—	—	—	—	—
Maryhill burgh	2,065 2 –	nil	—	—	—	—	2,065 2 –	129 1 4	–	1 3	—	—	—	—	—	—	—	—	—	—
Falkirk burgh	– – –	—	—	—	—	—	– – –	26 3 7	1 – and – 1½	—	—	—	—	—	—	—	—	—	—	—

Appendix, No. 5.

PAPERS handed in by Mr. *Alexander*, 27 April 1865.

ABSTRACT of DEDUCTIONS allowed in the PARISHES in *Scotland* undernoted, in terms of Section 37 of the Poor Law Act, 8 & 9 Vict. c. 83, produced by Mr. *D. C. Alexander*, Selkirk, to Select Committee of House of Commons on Valuation Act. App. No. 5.

No.	PARISH.	Lands, per 100 *l.* of Rental.	Houses, per 100 *l.* of Rental.	Mills, per 100 *l.* of Rental.
		£. s. d.	£. s. d.	£. s. d.
1	Selkirk	5 – –	15 – –	20 – –
2	Wilton	12 10 –	25 – –	30 – –
3	Hawick	12 10 –	25 – –	27 10 –
4	Melrose	12 10 –	25 – –	25 – –
5	Innerleithen	17 10 –	22 10 –	33 6 8
6	Galashiels	15 – –	25 – –	30 – –
	6)	75 – –	137 10 –	165 16 8
	£.	12 10 –	22 18 4	27 12 9⅓

RETURN by Millowners in the Counties of *Roxburgh, Selkirk,* and *Peebles,* of Valuation of their Mill Property as stated in the Valuation Rolls and Taxes, affecting Heritage,

NAME.	Year.	Valuation.	Repairs on Buildings.	Per-centage on Valuation.	Repairs on Great Gearing.	Per-centage on Valuation.	Repairs on Engine.	Per-centage on Valuation.	Repairs on Cauld Dam Wheels and Mill Lade.	Per-centage on Valuation.	Miscellaneous Repairs on Heritage.	Per-centage on Valuation.	Insurance on Heritage only.	Per-centage on Valuation.
1.		£. s. d.	£. s. d.	£. s. d.	£. s. d.	£. s. d.	£. s. d.	£. s. d.	£. s. d.	£. s. d.	£. s. d.	£. s. d.	£. s. d.	£. s. d.
Messrs. Brown Brothers, Galashiels	1862-3	500 – –	– –	– –	35 19 1	– –	– –	– –	45 – 5	– –	3 3 3	– –	18 19 6	– –
	1863-4	500 – –	– –	– –	46 12 8	– –	– –	– –	68 15 9	– –	3 6 6	– –	25 12 4	– –
	1864-5	598 4 –	– –	– –	57 1 6	– –	– –	– –	120 4 6	– –	4 6 10	– –	25 12 4	– –
	3)	1,598 4 –	– –	– –	139 13 3	– –	– –	– –	234 – 8	– –	10 16 7	– –	70 4 2	– –
	£.	532 14 8	– –	– –	46 11 1	8 14 9½	– –	– –	78 – 2⅔	14 12 10½	3 12 2⅓	– 13 6½	23 8 –⅔	4 7 10
2.									Engine Well.					
Messrs. William Roberts & Co., Galashiels	1862-3	312 – –	30 – –	– –	50 – –	– –	73 – –	– –	15 – –	– –	– –	– –	20 – –	– –
	1863-4	320 – –	31 – –	– –	75 – –	– –	160 – –	– –	100 – –	– –	– –	– –	25 – –	– –
	1864-5	320 – –	34 – –	– –	29 – –	– –	35 – –	– –	– –	– –	– –	– –	25 – –	– –
	3)	952 – –	95 – –	– –	154 – –	– –	268 – –	– –	115 – –	– –	– –	– –	70 – –	– –
	£.	317 6 8	31 13 4	9 19 7	51 6 8	16 3 5	89 6 8	28 3 –	38 6 8	12 1 7	– –	– –	23 6 8	7 7 –½
3.														
Messrs. J. Sibbald & Co., Galashiels	1862-3	275 – –	3 14 1	– –	– 11 6	– –	1 4 6	– –	4 17 4	– –	– –	– –	12 15 3	– –
	1863-4	275 – –	4 7 –	– –	2 13 6	– –	11 19 5	– –	4 10 9	– –	– –	– –	12 15 3	– –
	1864-5	315 – –	13 18 2	– –	2 16 –	– –	5 9 9	– –	6 15 2	– –	– –	– –	16 4 3	– –
	3)	865 – –	21 19 3	– –	6 1 –	– –	18 13 8	– –	16 3 3	– –	– –	– –	41 14 9	– –
	£.	288 6 8	7 6 5	2 10 9	2 – 4	– 14 –	6 4 6⅔	2 3 10½	5 7 9	1 17 6	– –	– –	13 18 3	4 16 6
4.														
Messrs. J. & W. Cochrane, Galashiels, for Netherdale	1862-3	380 2 6	21 13 5	– –	20 8 2	– –	25 4 11	– –	– –	– –	– –	– –	19 2 4	– –
	1863-4	455 16 5	32 2 11	– –	7 10 –	– –	20 12 9	– –	– –	– –	– –	– –	22 7 –	– –
	1864-5	472 10 –	22 6 2	– –	7 10 –	– –	36 7 5	– –	– –	– –	– –	– –	23 4 –	– –
	3)	1,308 8 11	76 2 6	– –	35 8 2	– –	82 5 1	– –	– –	– –	– –	– –	64 13 4	– –
	£.	436 2 11⅔	25 7 6	5 16 4	11 16 –⅔	2 14 1½	27 8 4⅓	6 5 8½	– –	– –	– –	– –	21 11 1⅓	4 18 10
5.														
Messrs. J. & W. Cochrane, Galashiels, for Mid Mill	1862-3	317 – –	15 12 6	– –	7 10 –	– –	11 19 10	– –	16 10 10½	– –	– –	– –	10 10 –	– –
	1863-4	317 – –	17 10 10½	– –	7 10 –	– –	16 10 8½	– –	11 17 9½	– –	– –	– –	10 10 –	– –
	1864-5	317 – –	15 12 7	– –	17 1 3	– –	176 13 9½	– –	7 9 7½	– –	– –	– –	10 10 –	– –
	3)	951 – –	48 15 11½	– –	32 1 3	– –	205 4 4	– –	35 18 3½	– –	– –	– –	31 10 –	– –
	£.	317 – –	16 5 3 1/12	5 3 4	10 13 9	3 7 2	68 8 1⅓	21 11 6	11 19 5 2/12	3 15 6	– –	– –	10 10 –	3 6 2½
6.														
Mr. William Brown, of Messrs. Brown & Shaw, Galashiels	1862-3	—	—	—	—	—	—	—	—	—	—	—	—	—
	1863-4	220 – –	8 10 –	– –	– –	– –	– –	– –	3 15 6	– –	2 10 –	– –	26 10 –	– –
	1864-5	220 – –	10 2 6	– –	– –	– –	– –	– –	4 4 –	– –	5 17 6	– –	28 10 6	– –
	2)	440 – –	18 12 6	– –	– –	– –	– –	– –	7 19 6	– –	8 7 6	– –	55 – 6	– –
	£.	220 – –	9 6 3	4 4 7½	– –	– –	– –	– –	3 19 9	1 16 3	4 3 9	1 18 –½	27 10 3	12 10 1½
7.														
Mr. John Paterson, Galashiels	1862-3	—	—	—	—	—	—	—	—	—	—	—	—	—
	1863-4	—	—	—	—	—	—	—	—	—	—	—	—	—
	1864-5	111 6 –	12 5 –	11 – 1⅓	5 – –	4 9 10	– –	– –	4 – –	3 11 10½	– –	– –	18 2 –	16 5 2⅓

made up in terms of the Act 17 and 18 Vict. c. 91, and of Expense incurred on Repairs and Insurance of Heritage, and of Public and other Burdens, Rates, exclusive of Property Tax. April 1865.

Feu Duty on Ground Rent.	Per-centage on Valuation.	Rogue Money and Prison Assessment.	Per-centage on Valuation.	Police Assessments.	Per-centage on Valuation.	Land Tax.	Per-centage on Valuation.	Road Money.	Per-centage on Valuation.	Registration and Valuation Assessment.	Per-centage on Valuation.	Poor Rates.	Per-centage on Valuation.	Total Repairs, Insurance, and Burdens.	Gross Per-centage on Valuation.
£. s. d.	£. s. d.	£. s. d.	£. s. d.	£. s. d.	£. s. d.	£. s. d.	£. s. d.	£. s. d.	£. s. d.	£. s. d.	£. s. d.	£. s. d.	£. s. d.	£. s. d.	£. s. d.
- -	- -	6 8 3	- -	- -	- -	- -	- -	8 13 -½	- -	- -	- -	26 - -	- -	144 3 6½	28 16 8½
- -	- -	7 11 10	- -	- -	- -	- -	- -	9 11 5	- -	- -	- -	20 9 4½	- -	181 19 10½	36 7 1½
- -	- -	7 2 11	- -	- -	- -	- -	- -	10 15 5	- -	- -	- -	23 6 1½	- -	248 9 7½	41 10 9
- -	- -	21 3 -	-	- -	- -	- -	- -	28 19 10½	- -	- -	- -	69 15 6	- -	574 13 -½	106 14 7
- -	- -	7 1 -	1 6 5½	- -	- -	- -	- -	9 13 3½	1 18 9½	- -	- -	23 5 2	4 7 3½	191 11 -2/12	35 11 6⅓
25 - -	- -	2 1 -	- -	16 10 -	- -			1 17 6	- -	- -	- -	16 - -	- -	249 8 6	79 18 10 6/12
25 - -	- -	2 1 -	- -	16 10 -	- -	- -	- -	1 17 6	- -	- -	- -	16 - -	- -	452 8 6	141 7 7 10/12
25 - -	- -	2 1 -	- -	16 10 -	- -	- -	- -	1 17 6	- -	- -	- -	16 - -	- -	184 8 6	57 12 7 10/12
75 - -	- -	6 3 -	- -	49 10 -	- -	- -	- -	5 12 6	- -	- -	- -	48 - -	-	886 5 6	278 19 2 2/12
25 - -	7 17 6¾	2 1 -	- 12 11	16 10 -	5 3 11¾	- -	- -	1 17 6	- 11 9¾	- -	- -	16 - -	5 - 10	295 8 6	92 19 8 9/12
16 8 3	- -	1 2 8	- -	14 17 11	- -	- -	- -	- 5 -	- -	- -	- -	10 10 3	- -	66 6 9	24 2 9 9/12
16 8 3	- -	1 1 2	- -	13 15 -	- -	- -	- -	- 5 -	- -	- -	- -	9 6 1	- -	77 1 5	28 - 6 1/12
16 8 3	- -	- 19 11	- -	15 15 -	- -	- -	- -	- 5 -	- -	- -	- -	11 2 2	- -	89 13 8	28 9 5
49 4 9	- -	3 3 9	- -	44 7 11	- -	- -	- -	- 15 -	- -	- -	- -	30 18 6	- -	233 1 10	80 12 8 1/2
16 8 3	5 13 10	1 1 3	- 7 6	14 15 11⅔	5 2 7½	- -	- -	- 5 -	- 1 8½	- -	- -	10 6 2	3 11 6	77 13 11⅓	26 17 6 1/2
55 - -	- -	1 14 10	- -	5 7 5	- -	- -	- -	- 10 -	- -	- -	- -	23 19 1	- -	173 - 2	45 10 5
79 6 -	- -	1 8 9	- -	5 11 3	- -	- -	- -	- 10 -	- -	- -	- -	21 3 10	- -	190 12 6	41 16 4
84 10 6	- -	1 9 4	- -	4 8 2	- -	- -	- -	- 10 -	- -	- -	- -	16 10 9	- -	196 16 4	41 13 1
218 16 6	- -	4 12 11	- -	15 6 10	- -	- -	- -	1 10 -	- -	- -	- -	61 13 8	- -	560 9 -	128 19 10
72 18 10	16 14 5½	1 10 11⅔	- 7 1	5 2 3⅓	1 3 5	- -	- -	- 10 -	- 2 3½	- -	- -	20 11 2⅔	4 14 3	186 16 4	42 19 11⅓
25 4 2	- -	1 7 6	- -	19 - 4	- -	- -	- -	- 6 8	- -	- -	- -	12 7 6	- -	120 9 4½	38 - -
25 4 2	- -	1 1 6	- -	17 13 2	- -	- -	- -	- 6 8	- -	- -	- -	10 19 3	- -	119 4 1½	37 12 1
25 4 2	- -	1 3 6	- -	15 17 -	- -	- -	- -	- 6 8	- -	- -	- -	11 8 9	- -	281 2 4	88 15 2
75 12 6	- -	3 12 6	- -	52 10 6	- -	- -	- -	1 - -	- -	- -	- -	34 15 6	- -	521 - 10	164 7 3
25 4 2	7 19 -½	1 4 2	- 7 7½	17 10 2	5 10 5½	- -	- -	- 6 8	- 2 1	- -	- -	11 11 10	3 13 1½	173 13 7⅓	54 15 9
31 4 7	- -	- 5 3	- -	- -	- -	- -	- -	- -	- -	- 4 3	- -	3 13 9	- -	76 13 4	34 17 -
31 7 -	- -	- 9 5	- -	- -	- -	- -	- -	- -	- -	- -	- -	3 17 -	- -	84 7 11	38 7 4
62 11 7	- -	- 14 8	- -	- -	- -	- -	- -	- -	- -	- 4 3	- -	7 10 9	- -	161 1 3	73 4 4
31 5 9½	14 4 5	- 7 4	- 3 4	- -	- -	- -	- -	- -	- -	- 2 1½	- - 11½	3 15 4½	1 14 3	80 10 7½	36 12 2
15 5 -	13 14 -	- 8 5	- 7 6½	- -	- -	- -	- -	- -	- -	- 2 1½	- 1 10½	2 15 7½	2 8 1½	57 18 2	52 - 6

RETURN by Millowners in the Counties of *Roxburgh, Selkirk,* and *Peebles,* of Valuation of their Mill Property as stated in the Valuation Rolls made up in terms of the Act 17 & 18 Vict., c. 91, and

NAME.	Year.	Valuation.	Repairs on Buildings.	Per-centage on Valuation.	Repairs on Great Gearing	Per-centage on Valuation.	Repairs on Engine.	Per-centage on Valuation.	Repairs on Cauld Dam Wheels and Mill Lade.	Per-centage on Valuation.	Miscellaneous Repairs on Heritage.	Per-centage on Valuation.	Insurance on Heritage only.	Per-centage on Valuation.
8.		£. s. d.	£. s. d.	£. s. d.	£. s. d.	£. s. d.	£. s. d.	£. s. d.	£. s. d.	£. s. d.	£. s. d.	£. s. d.	£. s. d.	£. s. d.
Messrs. R. and A. Sanderson, Galashiels -	1862-3 -	490 – –	18 17 6	– –	– –	– –	8 6 8	– –	4 15 5	– –	– –	– –	24 3 6	– –
	1863-4 -	537 – –	63 16 10	– –	80 – –	– –	90 13 –	– –	3 11 8	– –	– –	– –	26 15 –	– –
	1864-5 -	537 – –	211 13 10	– –	– –	– –	45 18 –	– –	3 7 6	– –	– –	– –	23 16 –	– –
	3)	1,564 – –	294 8 2	– –	80 – –	– –	144 17 8	– –	11 14 7	– –	– –	– –	74 14 6	– –
	£.	521 6 8	98 2 $8\frac{2}{3}$	18 6 $5\frac{1}{2}$	26 13 4	5 2 3	48 5 $10\frac{2}{3}$	9 5 3	3 18 $2\frac{1}{3}$	– 14 11	– –	– –	24 18 2	4 15 $6\frac{1}{2}$
9.														
Messrs. George Roberts & Co., Selkirk, for Forest Mill -	1862-3 -	371 5 2	23 16 1	– –	18 – –	– –	– –	– –	143 4 4	– –	– –	– –	12 18 6	– –
	1863-4 -	371 5 2	28 1 3	– –	20 – –	– –	– –	– –	50 2 $9\frac{1}{2}$	– –	– 5 6	– –	13 18 6	– –
	1864-5 -	432 18 11	29 7 9	– –	22 – –	– –	– –	– –	30 2 $10\frac{1}{2}$	– –	– –	– –	14 11 –	– –
	3)	1,175 9 3	81 5 1	– –	60 – –	– –	– –	– –	223 10 –	– –	– 5 6	– –	41 8 –	– –
	£.	391 16 5	27 1 $8\frac{1}{3}$	6 18 6	20 – –	5 2 1	– –	– –	74 10 –	19 – 6	– 1 10	– – 6	13 16 –	3 10 6
10.														
Messrs. George Roberts and Co., Selkirk, for St. Ronan's Mill -	1862-3 -	200 – –	7 10 –	– –	10 – –	– –	– –	– –	15 – –	– –	– –	– –	12 18 –	– –
	1863-4 -	200 – –	7 10 –	– –	10 – –	– –	– –	– –	15 – –	– –	– –	– –	12 18 –	– –
	1864-5 -	200 – –	7 10 –	– –	10 – –	– –	– –	– –	15 – –	– –	– –	– –	12 18 –	– –
	3)	600 – –	22 10 –	– –	30 – –	– –	– –	– –	45 – –	– –	– –	– –	38 14 –	– –
	£.	200 – –	7 10 –	3 15 –	10 – –	5 – –	– –	– –	15 – –	7 10 –	– –	– –	12 18 –	6 9 –
11.														
Messrs. Henry Ballantyne & Sons, Walkerburn -	1862-3 -	460 – –	10 – –	– –	5 – –	– –	– –	– –	50 – 3	– –	– –	– –	32 12 –	– –
	1863-4 -	460 – –	10 – –	– –	5 – –	– –	– –	– –	56 3 5	– –	– –	– –	34 14 –	– –
	1864-5 -	460 – –	10 – –	– –	5 – –	– –	– –	– –	79 17 –	– –	– –	– –	45 8 5	– –
	3)	1,380 – –	30 – –	– –	15 – –	– –	– –	– –	186 – 8	– –	– –	– –	112 14 5	– –
	£.	460 – –	10 – –	2 3 $5\frac{1}{2}$	5 – –	1 1 9	– –	– –	62 – $2\frac{2}{3}$	13 9 5	– –	– –	37 11 $5\frac{2}{3}$	8 3 4

ABSTRACT OF THE PRECEDING RETURNS.

	Average of													
1. Brown Brothers, Galashiels (A) -	3 years -	532 14 8	– –	– –	46 11 1	8 14 $9\frac{1}{2}$	– –	– –	78 – $2\frac{2}{3}$	14 12 $10\frac{1}{2}$	3 12 $2\frac{1}{3}$	– 13 $6\frac{1}{2}$	23 8 $-\frac{2}{3}$	4 7 10
2. William Roberts & Co., Galashiels (B)	3 „ -	317 6 8	31 13 4	9 19 7	51 6 8	16 3 5	89 6 8	28 3 –	38 6 8	12 1 7	– –	– –	23 6 8	7 7 $-\frac{1}{2}$
3. John Sibbald & Co., Galashiels (C) -	3 „ -	288 6 8	7 6 5	2 10 9	2 – 4	– 14 –	6 4 $6\frac{2}{3}$	2 3 $10\frac{1}{2}$	5 7 9	1 17 6	– –	– –	13 18 3	4 16 6
4. J. and W. Cochrane, Netherdale -	3 „ -	436 2 $11\frac{2}{3}$	25 7 6	5 16 4	11 16 $-\frac{2}{3}$	2 14 $1\frac{1}{2}$	27 8 $4\frac{1}{2}$	6 5 $8\frac{1}{2}$	– –	– –	– –	– –	21 11 $1\frac{1}{3}$	4 18 10
5. J. and W. Cochrane, Mid Mill - -	3 „ -	317 – –	16 5 $3\frac{10}{12}$	5 3 4	10 13 9	3 7 2	68 8 $1\frac{1}{3}$	21 11 6	11 19 $5\frac{2}{12}$	3 15 6	– –	– –	10 10 –	3 6 $2\frac{1}{2}$
6. Brown and Shaw, Galashiels - -	2 „ -	220 – –	9 6 3	4 4 $7\frac{1}{2}$	– –	– –	– –	– –	3 19 9	1 16 3	4 3 9	1 18 $-\frac{1}{2}$	27 10 3	12 10 $1\frac{1}{2}$
7. John Paterson, Galashiels - -	1 year -	111 6 –	12 5 –	11 – $1\frac{1}{2}$	5 – –	4 9 10	– –	– –	4 – –	3 11 $10\frac{1}{2}$	– –	– –	18 2 –	16 5 $2\frac{1}{2}$
8. R. and A. Sanderson & Co., Galashiels (D)	3 years -	521 6 8	98 2 $8\frac{2}{3}$	18 16 $5\frac{1}{2}$	26 13 4	5 2 3	48 5 $10\frac{2}{3}$	9 5 3	3 18 $2\frac{1}{3}$	– 14 11	– –	– –	24 18 2	4 15 $6\frac{1}{2}$
9. George Roberts & Co, Forest - -	3 „ -	391 16 5	27 1 $8\frac{1}{3}$	6 18 6	20 – –	5 2 1	– –	– –	74 10 –	19 – 6	– 1 10	– – 6	13 16 –	3 10 6
10. George Roberts & Co., St. Ronan's -	3 „ -	200 – –	7 10 –	3 15 –	10 – –	5 – –	– –	– –	15 – –	7 10 –	– –	– –	12 18 –	6 9 –
11. H. Ballantyne & Son, Innerleithen -	3 „ -	460 – –	10 – –	2 3 $5\frac{1}{2}$	5 – –	1 1 9	– –	– –	62 – $2\frac{2}{3}$	13 9 5	– –	– –	37 11 $5\frac{2}{3}$	8 3 4
TOTAL Averages - - - £.		3,796 – $-\frac{2}{3}$	244 18 $2\frac{10}{12}$	6 9 –	189 1 $2\frac{2}{3}$	4 19 7	239 13 7	6 6 3	297 2 $2\frac{10}{12}$	7 16 6	7 17 $9\frac{1}{3}$	– 4 $1\frac{1}{2}$	227 9 $11\frac{2}{3}$	5 19 $10\frac{1}{2}$

(A) From the buildings and engine of these parties being almost new, the expense of maintenance for the years included in the Return has been nominal. No feu duty is entered in this Return, as Messrs. Brown bought free of feu duty. The original cost of land and water power was about 4,000 *l.*, so that, had the property been feued, the burdens would have been much larger. The average in this exceptional case is about 35 *l.* per cent.

(B) In this instance the expenses have been large, in consequence of a break-down of the engine shaft, and of the choking-up of the engine well. These are contingencies to which millowners are constantly exposed, and may be justly considered in striking an average.

of Expense incurred on Repairs and Insurance of Heritage, and of Public and other Burdens, Rates, and Taxes affecting Heritage, exclusive of Property Tax; April 1865—*continued.*

Feu Duty or Ground Rent.	Per-centage on Valuation.	Rogue Money and Prison Assessment.	Per-centage on Valuation.	Police Assessment.	Per-centage on Valuation.	Land Tax.	Per-centage on Valuation.	Road Money.	Per-centage on Valuation.	Registration and Valuation Assessment.	Per-centage on Valuation.	Poor Rates.	Per-centage on Valuation.	Total Repairs, Insurance, and Burdens.	Gross Per-centage on Valuation.
£. s. d.	£. s. d.	£. s. d.	£. s. d.	£. s. d.	£. s. d.	£. s. d.	£. s. d.	£. s. d.	£. s. d.	£. s. d.	£. s. d.	£. s. d.	£. s. d.	£. s. d.	£. s. d.
20 – –	– –	2 – 5	– –	26 10 10	– –	– –	– –	– 5 –	– –	– –	– –	18 11 7	– –	123 10 11	25 4 3
20 – –	– –	1 12 1	– –	26 17 –	– –	– –	– –	– 5 –	– –	– –	– –	18 – 4	– –	331 10 11	61 14 9
20 – –	– –	1 2 7	– –	26 17 –	– –	– –	– –	– 5 –	– –	– 10 4	– –	18 15 6	– –	352 5 9	65 12 –
60 – –	– –	4 15 1	– –	80 4 10	– –	– –	– –	– 15 –	– –	– 10 4	– –	55 7 5	– –	807 7 7	152 11 –
20 – –	3 16 8	1 11 $8\frac{1}{3}$	– 6 –	26 14 $11\frac{1}{3}$	5 2 7	– –	– –	– 5 –	– – $11\frac{1}{2}$	– 3 $5\frac{1}{3}$	– – $7\frac{1}{2}$	18 9 $1\frac{2}{3}$	2 19 4	269 2 $6\frac{1}{3}$	50 17 –
20 18 $10\frac{1}{2}$	– –	1 13 $-\frac{1}{2}$	– –	4 16 5	– –	– 10 8	– –	– 7 –	– –	– –	– –	18 1 $4\frac{1}{2}$	– –	244 6 $3\frac{1}{2}$	65 16 1
20 18 $10\frac{1}{2}$	– –	1 10 5	– –	3 4 3	– –	– 10 2	– –	– 12 –	– –	– 7 5	– –	15 9 9	– –	155 – 11	41 15 3
25 3 $9\frac{1}{2}$	– –	1 – $2\frac{1}{2}$	– –	3 13 2	– –	– 10 2	– –	– 12 –	– –	– 4 9	– –	14 10 $2\frac{1}{2}$	– –	141 15 11	32 15 –
67 1 $6\frac{1}{2}$	– –	4 3 8	– –	11 13 10	– –	1 11 –	– –	1 11 –	– –	– 12 2	– –	48 1 4	– –	541 3 $1\frac{1}{2}$	140 6 4
22 7 $2\frac{2}{1\,2}$	5 14 2	1 7 $10\frac{2}{3}$	– 7 1	3 17 $11\frac{1}{3}$	– 19 11	– 10 4	– 2 7	– 10 4	– 2 7	– 4 $-\frac{2}{3}$	– 1 –	16 – $5\frac{1}{3}$	4 1 9	180 7 $8\frac{1}{2}$	46 15 $5\frac{1}{3}$
31 8 1	– –	– 7 11	– –	1 3 9	– –	– –	– –	– –	– –	– –	– –	4 19 6	– –	83 7 3	41 13 $7\frac{1}{2}$
31 14 3	– –	– 8 3	– –	1 6 2	– –	– –	– –	– –	– –	– –	– –	5 6 4	– –	84 3 –	42 1 6
31 14 3	– –	– 9 6	– –	1 10 –	– –	– –	– –	– –	– –	– –	– –	5 11 2	– –	84 12 11	42 6 $5\frac{1}{2}$
94 16 7	– –	1 5 8	– –	3 19 11	– –	– –	– –	– –	– –	– –	– –	15 17 –	– –	252 3 2	126 1 7
31 12 $2\frac{1}{3}$	15 16 1	– 8 $6\frac{2}{3}$	– 4 3	1 6 $7\frac{2}{3}$	– 13 $3\frac{1}{2}$	– –	– –	– –	– –	– –	– –	5 5 8	2 12 10	84 1 $-\frac{2}{3}$	42 – $6\frac{1}{3}$
56 – 2	– –	3 13 5	– –	– –	– –	– 2 1	– –	– –	– –	– –	– –	13 5 10	– –	170 13 9	37 2 1
56 – 2	– –	5 13 –	– –	– –	– –	– 2 1	– –	– –	– –	– –	– –	13 19 7	– –	181 12 3	39 9 7
56 – 2	– –	5 15 5	– –	– –	– –	– 2 1	– –	– –	– –	– –	– –	15 18 10	– –	218 1 11	47 8 3
168 – 6	– –	15 1 10	– –	– –	– –	– 6 3	– –	– –	– –	– –	– –	43 4 3	– –	570 7 11	123 19 11
56 – 2	12 3 6	5 – $7\frac{1}{3}$	1 1 10	– –	– –	– 2 1	– – $5\frac{1}{2}$	– –	– –	– –	– –	14 8 1	3 2 $7\frac{1}{2}$	190 2 $7\frac{2}{3}$	41 6 $7\frac{2}{3}$

ABSTRACT OF THE PRECEDING RETURNS.

– –	– –	7 1 –	1 6 $5\frac{1}{2}$	– –	– –	– –	– –	9 13 $3\frac{1}{2}$	1 18 $9\frac{1}{2}$	– –	– –	23 5 2	4 7 $3\frac{1}{2}$	191 11 $-\frac{2}{1\,2}$	35 11 $6\frac{1}{3}$
25 – –	7 17 $6\frac{3}{4}$	2 1 –	– 12 11	16 10 –	5 3 $11\frac{3}{4}$	– –	– –	1 17 6	– 11 $9\frac{3}{4}$	– –	– –	16 – –	5 – 10	295 8 6	92 19 $8\frac{9}{1\,2}$
16 8 3	5 13 10	1 1 3	– 7 6	14 15 $11\frac{2}{3}$	5 2 $7\frac{1}{2}$	– –	– –	– 5 –	– 1 $8\frac{1}{2}$	– –	– –	10 6 2	3 11 6	77 13 $11\frac{1}{3}$	26 17 $6\frac{1\,1}{1\,2}$
72 18 10	16 14 $5\frac{1}{2}$	1 10 $11\frac{2}{3}$	– 7 1	5 2 $3\frac{1}{3}$	1 3 5	– –	– –	– 10 –	– 2 $3\frac{1}{2}$	– –	– –	20 11 $2\frac{2}{3}$	4 14 3	186 16 4	42 19 $11\frac{1}{3}$
25 4 2	7 19 $-\frac{1}{2}$	1 4 2	– 7 $7\frac{1}{2}$	17 10 2	5 10 $5\frac{1}{2}$	– –	– –	– 6 8	– 2 1	– –	– –	11 11 10	3 13 $1\frac{1}{2}$	173 13 $7\frac{1}{3}$	54 15 9
31 5 $9\frac{1}{2}$	14 4 5	– 7 4	– 3 4	– –	– –	– –	– –	– –	– –	– 2 $1\frac{1}{2}$	– – $11\frac{1}{2}$	3 15 $4\frac{1}{2}$	1 14 3	80 10 $7\frac{1}{2}$	36 12 2
15 5 –	13 14 –	– 8 5	– 7 $6\frac{1}{2}$	– –	– –	– –	– –	– –	– –	– 2 $1\frac{1}{2}$	– 1 $10\frac{1}{2}$	2 15 $7\frac{1}{2}$	2 8 $1\frac{1}{2}$	57 18 2	52 – 6
20 – –	3 16 8	1 11 $8\frac{1}{3}$	– 6 –	26 14 $11\frac{1}{3}$	5 2 7	– –	– –	– 5 –	– – $11\frac{1}{2}$	– 3 $5\frac{1}{3}$	– – $7\frac{1}{3}$	18 9 $1\frac{2}{3}$	2 19 4	269 2 $6\frac{1}{3}$	50 17 –
22 7 $2\frac{2}{1\,2}$	5 14 2	1 7 $10\frac{2}{3}$	– 7 1	3 17 $11\frac{1}{3}$	– 19 11	– 10 4	– 2 7	– 10 4	– 2 7	– 4 $-\frac{2}{3}$	– 1 –	16 – $5\frac{1}{3}$	4 1 9	180 7 $8\frac{1}{2}$	46 15 $5\frac{1}{2}$
31 12 $2\frac{1}{3}$	15 16 1	– 8 $6\frac{2}{3}$	– 4 3	1 6 $7\frac{2}{3}$	– 13 $3\frac{1}{2}$	– –	– –	– –	– –	– –	– –	5 5 8	2 12 10	84 1 $-\frac{2}{3}$	42 – $6\frac{1}{3}$
56 – 2	12 3 6	5 – $7\frac{1}{3}$	1 1 10	– –	– –	– 2 1	– – $5\frac{1}{2}$	– –	– –	– –	– –	14 8 1	3 2 $7\frac{1}{2}$	190 2 $7\frac{2}{3}$	41 6 $7\frac{2}{3}$
316 1 7	8 6 $10\frac{1}{2}$	22 2 $10\frac{2}{3}$	– 11 $9\frac{1}{2}$	85 17 $11\frac{1}{2}$	2 5 3	– 12 5	– – $3\frac{3}{4}$	13 7 $9\frac{1}{2}$	– 7 $-\frac{1}{2}$	– 11 9	– – $3\frac{1}{2}$	142 8 $8\frac{2}{3}$	3 15 $-\frac{1}{2}$	1,787 6 $1\frac{1}{2}$	47 1 8

(c) In reference to this return, the parties making it say, "The return is decidedly a low average. If the return had included a greater number of years, the result would have been larger; and we have not included any charge regarding the fairness of which there can be any doubt."

(d) In making their return these parties say, "The repairs on buildings are heavy, in consequence of upwards of 300 *l.* out of a rental of 537 *l.* representing old buildings. During 1864 two entire floors had to be lifted and renewed. Repairs on engine are heavy, owing to insufficiency of first construction, and to working it rather beyond its power."

RETURN of VALUATION of LANDS of *Elmburn*, in the Parish of *Kirkhope* and County of *Selkirk*; with Statement of Expenditure for Repairs, Insurance, &c., and for Rates of Taxes and Assessments exclusive of Property Tax.

LANDS.	YEAR.	Valuation.	Repairs on Buildings.	Insurance on Heritage only.	Feu Duty, or Ground Rent.	Rogue Money and Prison Assessments.	Police Assessments.	Road Money.	Registration and Valuation Assessment.	Poor Rates.	Stipend.	School Salary.	Repairs of Parochial Buildings.	Total Repairs, Insurance, and Burdens.	Gross Per-centage on Valuation.
		£. s. d.	£. s. d.	£. s. d.	£. s. d.	£. s. d.	£. s. d.	£. s. d.	£. s. d.	£. s. d.	£. s. d.	£. s. d.	£. s. d.	£. s. d.	£. s. d.
Elmburn	1862-3	185 – –	Kept up by Tenant.	1 8 –	1 4 6	– 12 1	2 6 3	1 16 8½	– –	2 19 2	3 18 –	1 9 5	1 16 1	17 10 2½	9 9 3½
	1863-4	185 – –		1 8 –	1 4 6	– 7 11	1 10 10	1 16 8½	– 3 7	2 6 3¼	3 14 9	1 9 6	– –	14 2 –¾	7 12 5½
	1864-5	185 – –		1 15 4	1 4 6	– 9 9	1 10 10	1 16 8½	– 2 1	2 14 –	3 6 3¼	1 9 6	2 9 3	16 18 2¾	9 2 9½
	3)	555 – –	– – –	4 11 4	3 13 6	1 9 9	5 7 11	5 10 1½	– 5 8	7 19 5¼	10 19 –¼	4 8 5	4 5 4	48 10 6	26 4 6½
	£.	185 – –	– – –	1 10 5⅓	1 4 6	– 9 11	1 15 11⅔	1 16 8½	– 1 10⅔	2 13 1⁹⁄₁₂	3 13 –½	1 9 5⅔	1 8 5⅓	16 3 6	8 14 10½

RETURN of VALUATION of LANDS of *Howdshall* and *Midlem*, in the Parish of *Bowden* and County of *Roxburgh*; with Statement of Expenditure for Repairs, Insurance, &c., and for Rates of Taxes and Assessments exclusive of Property Tax.

LANDS.	YEAR.	Valuation.	Repairs on Buildings.	Insurance on Heritage only.	Feu Duty, or Ground Rent.	Rogue Money and Prison Assessments.	Police Assessments.	Road Money.	Registration and Valuation Assessment.	Poor Rates.	Stipend.	School Salary.	Repairs of Parochial Buildings.	Total Repairs, Insurance, and Burdens.	Gross Per-centage on Valuation.
		£. s. d.	£. s. d.	£. s. d.	£. s. d.	£. s. d.	£. s. d.	£. s. d.	£. s. d.	£. s. d.	£. s. d.	£. s. d.	£. s. d.	£. s. d.	£. s. d.
Howdshall and Midlem Lands	1862-3	110 15 –	– – –	– –	– 6 7	1 6 9	– –	– 19 –	– –	2 18 1	3 5 6	– –	– –	8 15 11	7 18 10
	1863-4	110 15 –	– – –	– –	– 6 7	1 6 9	– –	– 19 –	– –	2 10 7	2 17 9½	– –	– –	8 – 8½	7 5 7½
	2)	221 10 –	– – –	– –	– 13 2	2 13 6	– –	1 18 –	– –	5 8 8	6 3 3½	– –	– –	16 16 7½	15 4 5½
	£.	110 15 –	– – –	– –	– 1 7	1 6 9	– –	– 19 –	– –	2 14 4	3 1 7¾	– –	– –	8 8 3¾	7 12 2¾

RETURN of VALUATION of LANDS of *Whitmuir* and *Greenhead*, in the Parish of *Selkirk* and County of *Roxburgh*; with Statement of Expenditure for Repairs, Insurance, &c., and for Rates of Taxes and Assessments exclusive of Property Tax.

LANDS.	YEAR.	Valuation.	Repairs on Buildings and Fences.	Insurance on Heritage only.	Feu Duty, or Ground Rent.	Rogue Money, Prison, and Police Assessments.	Land Tax.	Road Money.	Poor Rates.	Stipend.	School Salary.	New Parish Church.	Total Repairs, Insurance, and Burdens.	Gross Per-centage on Valuation.
		£. s. d.	£. s. d.	£. s. d.	£. s. d.	£. s. d.	£. s. d.	£. s. d.	£. s. d.	£. s. d.	£. s. d.	£. s. d.	£. s. d.	£. s. d.
1. Whitmuir	1862-3	545 – –	– – –	– – –	– –	6 5 9	3 3 6	5 2 6	15 16 5½	6 7 10	1 3 2	52 18 2	90 17 4½	16 12 6½
	1863-4	545 – –	– – –	– – –	– –	6 10 4½	3 3 6	3 8 –	13 11 3	6 7 10	1 3 2	8 9 7	42 13 8½	7 16 7½
	1864-5	545 – –	– 11 8	1 14 1	– –	6 9 8	3 3 6	3 12 10	12 8 7½	6 7 10	1 3 2	– –	35 11 4	6 10 6½
	3)	1,635 – –	– 11 8	1 14 1	– –	19 5 9½	9 10 6	12 3 4	41 16 4	19 3 6	3 9 6	61 7 9	169 2 5½	30 19 8½
	£.	545 – –	– 3 10⅔	– 11 4⅓	– –	6 8 7⁷⁄₁₂	3 3 6	4 1 1⅓	13 18 9⅓	6 7 10	1 3 2	20 9 3	56 7 5¹⁰⁄₁₂	10 6 6¹⁰⁄₁₂
2. Greenhead	1862-3	310 – –	7 11 6	Insurance paid by Tenant.	– 11 1	3 11 9	1 14 10	2 19 3	9 12 9½	19 10 6	– 13 2	30 1 10	76 6 8½	24 12 6
	1863-4	430 – –	3 13 1½		– 11 1	3 14 6	1 14 10	1 19 10	9 15 6½	18 13 –	– 13 2	6 9 1	47 4 2	10 19 6½
	1864-5	430 – –	*93 5 7½		– 11 1	5 5 1	1 14 10	2 2 9	10 7 3	16 10 1	– 13 2	– –	130 9 10½	30 6 8½
	3)	1,170 – –	104 10 3	– – –	1 13 3	12 11 4	5 4 6	7 1 10	29 15 7	54 13 7	1 19 6	36 10 11	254 – 9	65 18 9
	£.	390 – –	34 16 9	– – –	– 11 1	4 3 9⅓	1 14 10	2 7 3⅓	9 18 6⅓	18 4 6⅓	– 13 2	12 3 7⅔	84 13 7	21 19 7

* *Note.*—This expense, to the extent of about 89 *l.*, was for a thorough repair of steading at the commencement of a new lease for a period of 19 years. All future repairs for maintenance are made at the mutual expense of landlord and tenant.

Appendix, No. 6.

PAPER handed in by Mr. *James Wilson*, 27 April 1865.

LIST of DEDUCTIONS allowed by different Parishes in County of *Ayr*, from Valuation Roll, before Assessing for Poor Rates.

PARISH.	LANDS.		HOUSES.		RAILWAYS.		MINERALS.	
	Proprietor per cent.	Tenant per cent.	Proprietor per cent.	Tenant per cent.	Proprietor per cent.	Tenant per cent.	Proprietor per cent.	Tenant per cent.
DISTRICT of KYLE:								
Ayr	10	10	25	25	25	25	25	25
Auchinleck	Voluntary Assessment.							
Craiger	-	not assessed.	25	not assessed.	No railways.		No minerals.	
Coylton	10	10	15	15	15	15	15	15
Dalrymple	10	10	20	20	20	20	10	10
Dundonald	10	10	15	15	25	25	10	10
Dalmellington	-	-	-	-	15	—	—	—
Galston	Voluntary Assessment							
Mauchline	Voluntary Assessment.							
Muirkirk	10	63⅔	10	-	25	33⅓	10	33⅓
Newton	-	-	-	-	25	25	—	—
Old Cumnock	10	66⅔	15 slated 25 thatched	-	25	33⅓	10	33⅓
New Cumnock	10	33⅓	12½	-	25	—	—	—
Ochiltree	10	10	15	15	No railways.		No minerals.	
Monkton	10	10	10	10	20	20	- ditto.	
Riccarton	10	-	25	-	15	—	10	—
St. Quivor	2½	2½	12½	12½	17½	17½	2½	2½
Sorn	12½	-	17½ thatched 15 slated	-	25	25	12½	—
Stair	-	-	-	-	No railways.		—	—
Symington	-	-	-	-	No railways.		No minerals.	
Turbolton	12½	12½	12½	12½	25	25	- ditto.	
DISTRICT OF CUNNINGHAME:								
Ardrossan	5	5	15	15	20	20	20	20
Beith	12½	12½	25 slated 35 thatched	25 slated 35 thatched	35	35	20	20
Dreghorn	10	10	25	25	25	25	15	15
Dalry	10	10	25	25	25	25	25	25
Dunlop	12½	12½	25	25	No railways.		No minerals.	
Fenwick	5	5	5	5	- ditto -		- ditto.	
Irvine	-	-	50	25	-	-	25	25	—	—
Kilbirnie	10	10	25	25	25	25	10	10
Kilmaurs	-	-	25	-	20	20	—	—
Kilwinning	10	10	16⅔ slated 25 thatched	16⅔ slated 25 thatched	25	25	10	10
Largs	10	60	20 new 33 old	-	No railways.		No minerals.	
Loudoun	10	-	20	-	- ditto -		10	—
Stevenston	10	10	20	20	20	20	20	20
Stewarton	10	10	25	25	No railways.		No minerals.	
West Kilbride	10	10	20	20	- ditto -		- ditto.	
Kilmarnock	10	-	25	-	25	—	10	—
DISTRICT of CARRICK:								
Ballantre	-	-	-	-	No railways.		No minerals.	
Barr	-	-	-	-	- ditto -		- ditto.	
Colmonnell	15	15	20	20	- ditto -		- ditto.	
Dailly	15	15	20	20	25	25	20	20
Girvan	12	12	15	15	25	25	No minerals.	
Kirkmichael	Voluntary Assessment.							
Kirkoswald	12½	12½	25	25	25	25	12½	12½
Maybole	12½	12½	25	25	25	25	No minerals.	
Straiton	50	10	10	10	No railways.		10	10

Appendix, No. 7.

App. No. 7.

PAPER handed in by Mr. *Paterson*, 27 April 1865.

Description and Situation of Property.	Rental per Annum.	Outlay for Repairs in Five Years from 1860 to 1864.	Rate per Cent.	Remarks.
	£. s. d.	£. s. d.		
Two shops in Leith - - -	31 – –	—	–	
Eighteen small houses in Edinburgh, rents 9 *l.* 10 *s.* each, or thereby.	170 – –	9 3 –	1	Property about 15 years old.
Country house, with 1 ½ acres of ground, about 10 miles from Edinburgh.	35 – –	37 2 3	20	Old, but very substantial property.
Mansion-house, with about 8 acres of ground, nearly 10 miles from Edinburgh.	60 – –	81 4 11	27	House and offices erected about 17 years ago.
Two warehouses, South Bridge-street, Edinburgh.	125 12 –	20 4 11	3¼	
Shop, with house attached, Leith-walk, Edinburgh.	28 – –	6 17 4	4¾	
Dwelling-house, Dublin-street, Edinburgh.	31 – –	14 2 6	9⅓	Flat in common stair.
Small houses, South, back of Canongate.	40 10 –	51 6 8	25	Rents vary from 1 *l.* 17 *s.* to 5 *l.* 8 *s.*
Small houses, Canongate and St. John's Hill.	84 – –	67 2 3	16	Rents from 2 *l.* to 11 *l.*
Self-contained house, Albany-street	85 – –	24 7 3	5¾	
Small houses, Rose-street - -	47 – –	12 4 –	5¼	Small houses, rented from 2 *l.* 5 *s.* to 5 *l.* 5 *s.*
Shop, George-street - - -	75 – –	1 14 4	½	
Small houses in Leith - - -	232 – –	62 12 4	5¼	51 houses, rents 4 *l.* and under 8 *l.*
Ditto - - - ditto - - -	472 – –	147 9 8	6	64 houses, rents 7 *l.* and under 12 *l.*
Flatted houses of better class -	145 – –	62 6 5	8½	5 houses, rents 20 *l.* and under 50 *l.*
Self-contained house - - -	55 – –	42 8 2	19	One tenant. This case applies only to four years.
Warehouse, South Bridge - -	41 – –	2 4 10	1¼	
Small houses, Windmill-lane -	69 – –	16 6 9	4¾	Rents from 5 *l.* to 6 *l.*
Single house, Brown-street - -	10 – –	2 12 8	5¼	
Two houses, Causewayside - -	36 – –	18 8 2	10½	Rents, 17 *l.* and 19 *l.*
One house - ditto - -	30 – –	18 9 1	12½	Small villa.
Villa, Duncan-street, Newington -	45 – –	47 16 6	21	
Villa, Causewayside, and Flat, Rankeillor-street.	100 – –	61 5 6	12¼	Rents, 63 *l.* and 37 *l.*

Appendix, No. 8.

App. No. 8.

PAPERS handed in by Mr. *Paterson*, 4 May 1865.

LIST OF COUNTIES IN SCOTLAND.

GOVERNMENT ASSESSORS.

Counties.	Rental.	Counties.	Rental.
	£.		£.
Aberdeen	629,675	Kinross	58,069
Ayr (Kyle District)	291,545	Kircudbright	279,820
Banff	182,885	Lanark	1,153,338
Bute	40,128	Nairn	28,865
Dumbarton	242,586	Roxburgh	387,417
Forfar	508,095	Stirling	315,371
Haddington	266,701	Wigton	178,619
Inverness	237,348		
Kincardine	197,133	£.	4,997,595

LOCAL ASSESSORS.

Counties.	Rental.	Counties.	Rental.
	£.		£.
Argyle	345,179	Fife	625,250
Ayr (Cunningham and Carrick Districts).	471,115	Linlithgow	198,991
		Orkney and Shetland	83,373
Berwick	326,203	Peebles	98,169
Caithness	102,039	Perth	740,000
Clackmannan	74,000	Renfrew	397,143
Cromarty	8,178	Ross	193,068
Dumfries	375,144	Sutherland	57,339
Edinburgh	468,274		
Elgin and Moray	131,770	£.	4,695,235

LIST OF PARLIAMENTARY BURGHS IN SCOTLAND.

GOVERNMENT ASSESSORS.

Parliamentary Burghs.	Rental.	Parliamentary Burghs.	Rental.
	£.		£.
Brechin	11,211	Kintore	2,195
Cullen	2,916	Kirkcudbright	5,882
Dumbarton	22,244	Lanark	9,191
Dundee	253,830	New Galloway	757
Falkirk	19,648	Paisley	111,850
Forfar	16,955	Port Glasgow	22,668
Haddington	12,172	Whithorn	2,747
Hamilton	25,333	Wigton	5,107
Inverbervie	864		
Jedburgh	9,855	£.	535,42

App. No. 8.

LIST OF PARLIAMENTARY BURGHS IN SCOTLAND—*continued.*

Local Assessors.

Parliamentary Burghs.	Rental.	Parliamentary Burghs.	Rental.
	£.		£.
Aberdeen	179,072	Kilmarnock	45,454
Airdrie	21,241	Kilrenny	2,896
Annan	8,113	Kinghorn	669
Anstruther (Easter)	3,880	Kirkcaldy	26,647
Ditto (Wester)	1,526	Kirkwall	6,154
Arbroath	44,577	Lauder	2,241
Ayr	45,370	Leith	150,642
Banff	8,660	Linlithgow	7,743
Bervie	864	Lockmaber	1,784
Burntisland	10,559	Montrose	35,657
Campbeltown	14,587	Musselburgh	18,032
Crail	2,944	Nairn	6,867
Cromarty	1,955	North Berwick	4,375
Culross	1,279	Oban	7,160
Cupar Fife	13,112	Peebles	5,958
Dingwall	5,471	Perth	74,367
Dornoch	610	Peterhead	17,211
Dumfries	33,043	Pittenweem	4,654
Dunbar	9,859	Portobello	24,482
Dunfermline	26,412	South Queensferry	1,242
Dysart	13,113	Renfrew	6,488
Edinburgh	971,889	Rothesay	27,669
Elgin	20,220	Rutherglen	15,743
Forres	7,267	St. Andrews	19,462
Fortrose	5,385	Sanquhar	2,396
Glasgow	1,668,191	Selkirk	8,727
Greenock	47,250	Stirling	42,604
Inveraray	2,676	Stranraer	12,055
Inverkeithing	2,372	Tain	4,055
Inverness	33,270	Wick	17,918
Inverury	5,208		
Irvine	13,071	£.	3,830,398

Opinion of Mr. *Young* as to Questions under Valuation Act.

The Governors of Heriot's Hospital have appealed with reference to 11 entries in the Valuation Roll of the Burgh, in which their names have been entered by the assessor as proprietors. The ground of appeal in regard to each of these entries is, that although the property is *bonâ fide* let for a yearly rent, conditioned as the fair annual value thereof, the assessor has not taken such rent as the measure of value, but has entered a higher sum, "the excess being for buildings erected on the Hospital's property by the tenants, for which the Governors draw no rent." The aggregate excess in the 11 entries complained of is 158 *l.* 12 *s.* 8 *d.* The first entry relates to a certain subject let by the Hospital to Messrs. J. & T. Scott, upholsterers, by a lease for 19 years from Martinmas 1850, and may, it is agreed, be taken to rule the others.

The subject of the lease is about an acre of ground, at the west end of the town, upon which at the date of the lease no buildings existed; but upon which it was provided that the tenants might, at their own expense, erect such workshops as they might find to be necessary, they being entitled to remove them at the termination of the lease, unless the landlords should agree to pay for them upon a valuation made on the principle of what the materials would be worth to the tenants if removed. It is admitted, on the part of the Hospital, that the tenants have erected workshops on the ground, of such a nature that they must be valued as heritages under the Act. It is further admitted, on the part of the Hospital, that the ground let with the buildings upon it, *i. e.* in its "actual state," at the date of the assessor's valuation, is worth 70 *l.* a year, being the sum which he has put upon it; while it is, on the other hand, conceded by the assessor that 18 *l.* 19 *s.* 4 *d.*, being the rent stipulated by the lease, may be taken as the *bonâ fide* rent, conditioned as the fair annual value of the ground let as it stood at the date of the lease, *i. e.* without the buildings which were subsequently erected by the tenants at their own expense.

Upon these facts the appellants contend that they ought not to be regarded as proprietors of the buildings, but only of the ground let by them to the Messrs. Scott, and that the rent payable therefor under the lease, viz., 18 *l.* 19 *s.* 4 *d.*, must be deemed and taken to be the yearly rent

or

or value thereof. They do not maintain that the buildings ought not to be valued as heritage under the Act, but only that the Messrs. Scott, and not they, ought to be specified in the Valuation Roll as the proprietors thereof. The question, therefore, as the appellants themselves present it, is, not whether the rent conditioned in the lease is to be taken as to the annual value of the lands and heritages in question "in their actual state," but whether they ought not to be valued as two distinct estates, viz. 1st. the ground, and, 2d. the buildings upon the ground; the appellants being specified as the proprietors of the first, and their tenants being specified as the proprietors of the second.

I think the appellants thus state the question fairly and accurately, for it does not appear to me to be possible to maintain that the rent conditioned by the lease for the ground without buildings can, upon a sound construction of section 6 of the Act, be taken as the annual value of the ground in its actual state, *i.e.* with the buildings upon it. Where the subject of a lease is, during the currency of a lease, merely *improved*, however extensively, whether by the expenditure of the landlord or of the tenant, the rent conditioned by the lease, if a *bonâ fide* rent, may, and I rather think must, be taken as the measure of value during the subsistence of the lease. But where the subject let is truly converted into a different kind of subject, as for example, by the erection of a house upon a building stance, it appears to me that the rent cannot thereafter be taken as the measure of value, though it may be all that the proprietor can draw from it while the lease subsists. I therefore think that the appellants put the question quite fairly when they state the alternative to be between specifying them and specifying their tenants as the proprietors of the buildings, which the latter erected at their own expense, and for which, in the mean time at least, no rent is paid.

Upon the question thus stated, the assessor contends that the buildings, being admittedly heritable in their character, and being erected upon ground belonging to the appellants, must in law be regarded as their property, although erected at the expense of the tenants, and although the tenants have by contract a right to remove them at the termination of the lease unless the appellants shall agree to pay the value estimated upon a certain principle. In this view of the case I concur, and I confess without any serious difficulty. I think it clear that, by the law of Scotland, the appellants are proprietors of the buildings in question, and therefore that the assessor did right to specify them in the Valuation Roll as such. Assuming, as I do, that the rent payable by the Messrs. Scott is the value of the ground alone, it is true that the appellants can draw no return from the buildings during the subsistence of the lease, or even after its termination, unless they shall pay the value to the Messrs. Scott in terms of the contract. But they are the proprietors of the subjects nevertheless, and the result which I have stated arises from the nature of the contract into which they entered, and under which the subjects were created. To maintain that the Messrs. Scott are the proprietors, the only other alternative is to maintain that the contract of lease can confer a title of property in houses built on the landlord's ground, a proposition which is plainly untenable.

It was contended that the effect of affirming the assessor's proceeding would be to subject the appellants to taxation in respect of property which yielded them no return, and which could yield them no return during the currency of existing leases, or even after their expiry, unless they then chose to pay for it. In answer, I have to observe that neither the assessor nor this Court has any jurisdiction in the matter of taxation. If upon the facts of the case the appellants are subject to taxation in respect of the buildings in question, no judgment of this Court can free them from liability, and cast it upon the Messrs. Scott. If, on the other hand, they are not liable, no judgment pronounced here can have the effect of subjecting them and relieving the parties who are legally liable. Any question of taxation which may be raised will be determined elsewhere without reference to the Valuation Roll, except only to this effect and extent, that the lands and heritages included in it are thereby conclusively valued. The assessor is required to specify in the roll "the names and designations of the proprietors or reputed proprietors;" but except in regard to burgh qualifications for the franchise under the Act of last Session, such specifications is not even *primâ facie* evidence of proprietorship, and even for that limited purpose it is *primâ facie* evidence only, and as such liable to be rebutted. The only effect, therefore, of the judgment which I now advise the Court to pronounce is, that the names of the appellants will stand in the Valuation Roll as the proprietors of the lands and heritages in question—not of the ground merely, but also of the buildings upon it, leaving all questions between them and those who are entered as their tenants, as to their liability respectively for all taxes, or for any particular taxes entirely untouched, these being questions upon which this Court has no jurisdiction.

(signed) *G. Young.*

App. No. 8.

PROPERTY belonging to the GOVERNORS of GEORGE HERIOT'S HOSPITAL, and charged higher by the Assessor than the Rents actually drawn by the Hospital.

	Real Rents.	Rents as Assessed.	Excess of Assessment over Rent.
No. 1.—The Excess being for Buildings erected on the Hospital's Property by the Tenants, for which the Governors draw no Rent.	£. s. d.	£. s. d.	£. s. d.
Messrs. J. & T. Scott	18 9 4	70 – –	51 10 8
Mr. Charles McCaul	37 – –	49 – –	12 – –
„ James Scott	5 5 –	17 – –	11 15 –
„ James Pae	5 – –	15 – –	10 – –
„ James Leishman	5 – –	24 – –	19 – –
Messrs. T. & J. Marshall	5 – –	12 – –	7 – –
Mr. George Maule	8 – –	14 – –	6 – –
Messrs. Wallace & Whyte	40 – –	50 – –	10 – –
„ William M'Crie & Co.	95 3 –	115 – –	19 17 –
Mr. Thomas Lang	17 – –	22 10 –	5 10 –
„ Francis Richardson	6 – –	12 – –	6 – –
£.	241 17 4	400 10 –	158 12 8
No. 2.—The Excess being in consequence of sub-letting.			
Widow James Paterson	12 – –	17 – –	5 – –
Mr. Archibald Rough	72 12 –	104 – –	31 8 –
„ David Carstairs	86 13 –	101 5 –	14 12 –
„ Alex. Todd	151 6 –	156 7 –	5 1 –
„ George Henderson	8 – –	14 15 –	6 15 –
„ Daniel Cameron	18 – –	22 17 –	4 17 –
TOTAL £.	348 – –	416 4 –	67 13 –
No. 3.—The Excess being partly for Property belonging to the Tenants, and partly in consequence of sub-lets.			
Mr. Peter Wardlaw	12 – –	26 – –	14 – –
„ Alex. Gibson	39 – –	47 10 –	8 10 –
„ John Shennan	37 10 –	45 – –	7 10 –
„ William Ireland	26 – –	53 15 –	27 15 –
„ Alex. Gillespie	4 10 –	8 – –	3 10 –
„ James Hill, now William Swan	70 – –	172 10 –	102 10 –
„ John Todd	119 14 –	224 – –	104 6 –
TOTAL £.	308 14 –	576 15 –	268 1 –

(signed) *John Dick*,
Treasurer, George Heriot's Hospital.

Alex^r. Black,
Surveyor, George Heriot's Hospital.

Edinburgh, 12, Royal Exchange,
3d September 1856.

Appendix, No. 9.

PAPERS handed in by Mr. *Duncan*, 4 May 1865.

CITY OF EDINBURGH ROAD TRUST.

EXCERPT from Folio 798 of Fourth Volume of Rental and Assessment Books, Year 1862-63.

RENTAL and ASSESSMENT for the purposes of the Act 25 Vict. cap. 53, for the Year from Whitsunday 1862 to Whitsunday 1863.

ADDENDA.

TENANTS OR OCCUPIERS.	Yearly Rent or Value of Lands and Heritages hitherto Exempted.	CHARGE. Authorised Assessment.	CHARGE. Temporary Abatement in respect of Lands and Heritages hitherto Exempted.	CHARGE. Net Amount Leviable.	DISCHARGE. Dates of Payment.	DISCHARGE. Amount Paid.	DISCHARGE. Abatements, Exemptions, &c., on Account of Overcharges, &c.
	£.	£. s. d.	£. s. d.	£. s. d.		£. s. d.	£. s. d.
North British Railway Company, per James Nairne, 4, Princes-street: Waverley Bridge, St. Leonard's, &c., Stations, Work, &c.	3,698	61 12 8	30 16 4	30 16 4	May 12 -	21 4 6	9 11 10
Edinburgh, Perth, and Dundee Railway Company, per J. Walker, 9, Princes-street: Princes-street, Scotland-street, &c., Stations, Work, &c.	1,717	28 12 4	14 6 2	14 6 2	„ 12 -	5 18 -	8 8 2
Edinburgh and Glasgow Railway Company, per J. A. Jamieson, Glasgow: Waverley Bridge, Haymarket, &c., Stations, Work, &c.	4,336	72 5 4	36 2 8	36 2 8	Feb. 27 -	36 2 8	—
Caledonian Railway Company, per Archibald Gibson, Secretary, Glasgow: Lothian-road, Stations, Work, &c.	2,371	39 10 4	19 15 2	19 15 2	May 15 -	6 6 6	13 8 8
Edinburgh Gas Light Company, per J. H. Watson, Manager: in and under Streets, Pipes, Ground, &c.	3,590	59 16 8	29 18 4	29 18 4	- -	- -	29 18 4
Edinburgh and Leith Gas Light Company, per Charles Arthur, Treasurer: in and under Streets, Pipes, Ground, &c.	1,344	22 8 -	11 4 -	11 4 -	- -	- -	11 4 -
Edinburgh Water Company, per Alexander Ramsay, Manager: in and under Streets, Pipes, Ground, &c.	4,740	79 - -	39 10 -	39 10 -	- -	- -	39 10 -
£.	21,796	363 5 4	181 12 8	181 12 8	- -	69 11 8	112 1 -

CITY OF EDINBURGH ROAD TRUST.

STATE showing the effect that would be produced on the Revenue of the Trust by adopting the Mode of VALUATION of LANDS and HERITAGES contemplated in the Bill for Amending the Lands Valuation Act of 17 & 18 Vict. cap. 91, which was introduced into Parliament last Session.

		£. s. d.
I.—The actual Rental assessed for the purposes of the Trust for the year 1862-63, was—		
Of Dwelling Houses - - - -	£. 569,846 - producing, at 4 *d.* per £. -	9,497 8 8
Of Shops and other Heritages - -	224,291* - „ 2 *d.* „ -	1,869 1 10
Together - - -	£. 794,137 £.	11,366 10 6
Assuming the annual average amount of landlords' taxes, insurance, and repairs to be (as stated by the burgh assessor) 19½ per cent. on Dwelling Houses and 9 per cent. on Shops, &c., the effect of an abatement from the Valuation Roll to that extent would have been to reduce the assessable rental for the above year as follows:—		
Of Dwelling Houses, to - - -	£. 458,726 producing, at 4 *d.* per £. 7,645 8 8	
Of Shops and other Heritages, to -	204,105 „ at 2 *d.* „ 1,700 17 6	
		9,346 6 2
Together - - -	£. 662,831	
Difference, being diminution of Annual Revenue - -	£.	2,020 4 4

* *Note.*—The rental of Shops and other Heritages for the year 1862-3 is stated under deduction of 13,446 *l.*, arising from underground works of Gas, Water, and Railway Companies, inadvertently included by the assessor but subsequently withdrawn, being exempted from assessment by sec. 52 of the Statute.

			£. s. d.
II.—The actual Rental assessed for 1863-64, was—			
Of Dwelling Houses - - -	£. 593,416	producing, at 4 *d.* per £. -	9,890 5 4
Of Shops and other Heritages - -	225,838	„ at 2 *d.* „ -	1,881 19 8
Together - - -	£. 819,254		11,772 5 –
Under the assumed abatement, as above, the assessable rental would have been reduced as follows:—			
Of Dwelling Houses, to - -	£. 477,700	producing, at 4 *d.* per £.	7,961 13 4
Of Shops and other Heritages, to -	205,513	„ at 2 *d.* „	1,712 12 2
			9,674 5 6
Together - - -	£. 683,213		
Difference, being diminution of Annual Revenue - -		£.	2,097 19 6
III.—The actual Rental assessed for 1864-65, was—			
Of Dwelling Houses - - - -	£. 616,475	producing, at 4 *d.* per £. -	10,274 11 8
Of Shops and other Heritages - -	239,950	„ at 2 *d.* „ -	1,999 11 8
Together - - -	£. 856,425		12,274 3 4
Under the assumed abatement, as above, the assessable rental would have been reduced as follows:—			
Of Dwelling Houses, to - - -	£. 496,262	producing, at 4 *d.* per £.	8,271 – 8
Of Shops and other Heritages, to -	218,354	„ at 2 *d.* „	1,819 12 4
			10,090 13 –
Together - - -	£. 714,616		
Difference, being diminution of Annual Revenue - -		£.	2,183 10 4
IV.—Upon the expiration of the first five years of the Act constituting the Trust (25 Vict. c. 53), the whole Lands and Heritages situate within the district became thenceforth chargeable with a uniform maximum rate of 5 *d.* in the pound on their real rent or annual value. Assuming that the rental of the City may go on increasing in the same ratio as for the two last past years, it is thought that by the time the full rate of 5 *d.* becomes chargeable (*i. e.* in 1867-68, it may have so increased as to be fairly estimated as follows:—			
Of Dwelling Houses - - -	£. 686,000		
Of Shops and other Heritages -	264,000		
Together - - -	£. 950,000	producing, at 5 *d.* per £. - -	19,791 13 4
Under the assumed abatement, as above, the assessable rental would be only as follows:—			
Of Dwelling Houses - - -	£. 552,230		
Of Shops and other Heritages -	240,240		
Together - - -	£. 792,470	producing, at 5 *d.* per £. only -	16,509 15 10
Difference, being diminution of the Annual Revenue then reckoned on - - - -		£.	3,281 17 6

Appendix, No. 10.

PAPER handed in by the Chairman, 8 May 1865.

LETTER from Mr. *T. G. Murray* to the Chairman of the Committee.

66, Queen-street, Edinburgh,
Dear Sir 6 May 1865.

As requested in your letter of the 4th, I now put in writing what I would have stated to the Committee had I been examined on Monday last.

I have been in business as a Writer to the Signet for 25 years, and have had occasion to see much of the management of landed property. My present firm are agents for a large number of landed proprietors in Scotland, and besides drawing the rents of from 20,000 *l.* to 25,000 *l.* a year of landed property, I find that we audit, or otherwise examine, the Factory Accounts of Estates with a gross rental of upwards of 200,000 *l.* per annum, whilst we have a clientage of at least an equal rental, where, though we do not see the estate accounts annually, we are occasionally consulted in connection with them.

At your request, I have examined the accounts of some estates, with the view of ascertaining, from actual results, what may be taken as an average of the necessary deductions from land rental. For this purpose I have made a careful analysis of the factory accounts of seven estates, taking the accounts of these estates over a period of 10 years.

I may state, as a preliminary, that I have selected estates which have been under what I may call ordinary management not only for those years, but for preceding years. Any one conversant with the management of landed property will know that it is quite possible to starve an estate, so to speak, for a period of years, and keep the expenditure below the average; but that this system has its limits, and after a certain period the requisite expenditure to keep the estate in order will increase at an extraordinary rate, or otherwise the rental cannot be maintained.

The seven estates I selected are in situation and rental as follows, the rental being stated in round numbers:—

I. Mid-Lothian and West Lothian, average rental, 15,600 *l.*

II. East Lothian and Mid-Lothian, average rental, 25,500 *l.*

III. Peeblesshire, average rental, 9,000 *l.*

IV. Perthshire, average rental, 8,700 *l.*

V. Berwickshire, average rental, 8,600 *l.*

VI. Forfarshire, average rental, 2,900 *l.*

VII. Fife, average rental, 2,500 *l.*

The gross rental of the seven estates on the average of the 10 years was 73,375 *l.* per annum.

I have then ascertained the expenditure on these estates during the 10 years on—(1.) Stipends; (2.) School salary; (3.) Parochial Assessments; (4.) Poor rates as paid by the proprietor; (5.) County taxes: and I find that the averages on the gross rental are as follows:—(1.) Stipends, 3 per cent.; (2.) School salary, $\frac{1}{2}$ per cent.; (3.) Parochial assessment, $\frac{3}{4}$ per cent.; (4.) Poor rates, $2\frac{1}{4}$ per cent.; (5.) County taxes, 2 per cent.; in all $8\frac{1}{2}$ per cent. App. No. 10.

I have also made a careful abstract of the repairs on farms, farm buildings, fences, and on the estates generally, so far as possessed by tenants, and I find the average on the seven estates on the 10 years to amount to $12\frac{1}{2}$ per cent.

In further explanation of the above results, I may state that under the head of taxes, &c., amounting to $8\frac{1}{2}$ per cent., I have not included assessments to which a proprietor is liable from time to time, but which may be held as of an extraordinary character, such as an assessment for building a church, a manse, or school buildings. The amount of these may for the year be very large, though by a recent statute the amount may be partially distributed over a period not exceeding 10 years.

Further, in all the cases selected, the stipends payable are what I may term an average amount, but there are particular estates on which an amount much beyond the average is payable as stipend, owing to the teinds not having been valued, while on others the amount under this head is greatly increased by the Crown drawing the surplus teinds. There are, as you are aware, a number of parishes in which the teinds are Bishop's teinds, which belong to the Crown, subject to the burden of the stipend which may be allocated thereupon. In former years, the Crown was in use to grant tacks of these teinds to the proprietors on very easy terms, but latterly all these tacks have been put an end to, and the Crown now draws the surplus. If the teinds are not valued, the minister and the Crown between them actually draw one-fifth of the rental. We have at present the case of a client, the owner of large property in a parish in Perthshire, where the teinds are Bishop's teinds. The Crown has for some years drawn the surplus teinds, under a decree of valuation of his teinds obtained in the 17th century, but it has lately intimated an intention to bring a reduction of this decree on the score of informality, and if the Crown shall be successful in this, they and the minister will together draw the full fifth of his gross rental; while under the present system the proprietor would get

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no deduction in the amount of his gross rent on which taxes would be levied.

Also, I find that, in the estates I have selected, the land-tax is in most cases redeemed. This is generally the case with the larger estates. When not redeemed, it may be estimated at from one quarter to one-half per cent.

In regard to the deductions for repairs, I have excluded all expenditure for drainage, as interest is generally paid on drainage outlay. Nor do these repairs include new steadings, or any operations, such as bringing moor land into cultivation. They are, in fact, what I consider absolutely necessary, in order to keep up the rental of an estate, renewing farm buildings where these get into disrepair, repairing or renewing fences, &c. &c. In connection with this subject, it is to be kept in view that the principle on which land is valued by a land valuator, or by any one taking a farm, is that the land is worth so much per acre, not *per se*, but on the assumption that the necessary accommodation for working the land is afforded by the landlord. In order to obtain this rent, therefore, the landlord must provide and maintain that accommodation. The case of grass parks, or lands let without buildings, are all exceptional, and in the case of grass parks there are other expenses attendant upon them falling upon a landlord. If, therefore, you take the rent of land at what it is let for, or at what valuators say it will bring one year with another, that is a rent only to be obtained by a certain expenditure on buildings and otherwise, and which I think may fairly be estimated at the above average of 12½ per cent.

I am aware that certain classes of landed property require less in the way of buildings, and other accommodation, than others. In particular, pastoral farms require comparatively a smaller outlay. If you were to class property, therefore, probably pastoral farms might be put at one-third or so less than agricultural, but I would foresee great difficulty in carrying this out, unless there was to be a minute estimate of each particular possession, which I cannot suppose practicable. To take a parish or district will not do. I could, for instance, give examples of large hill farms in Perthshire where the outlay is smaller, but in the same parish you will have small agricultural possessions in the glens where the outlay on repairs will be greater than the average on farms in the Lothians.

I have not considered the question as to railways, and give no opinion whether they should be allowed deduction on account of maintenance of way or not. But if deductions are to be allowed from gross rentals, then I think that in justice to landowners they must be allowed deductions for the five heads included under my first calculation, and also for repairs, as without these no landlord can possibly receive his rental: and I think the averages I have given afford a fair criterion for judging of the deductions which ought to be allowed.

I would deprecate in the strongest manner a proposition which I believe has been started in some quarters, that the valuation roll should only show the nett rental. I think it absolutely essential that the valuation roll should show the gross rental, whether deductions are to be afterwards given or not. I may state that the valuation roll has been found of the greatest use in business. It is especially valuable in the case of sale of property, or of lending money upon land, as affording the surest test of rental. Where parties are selling or borrowing money they are very apt to take sunny views of the rents of lands in their own hands, or what is let from year to year, &c., and it is very satisfactory to be able to check this by a reference to the valuation roll. I would hold, therefore, that if any deductions are to be given it ought to be done by fixed per-centages on the gross rent stated in the valuation roll; so much for stipends, and taxes, &c., and so much for repairs. Of course there will be still individual cases of hardship; but this cannot be avoided, and is, I think, less objectionable than to allow the valuator to give deductions, varying in particular cases or estates. This I am satisfied would lead to great abuse. And on the whole I do not think that as regards repairs, any distinction can with advantage be drawn further than as betwixt landed property and house property. I have not had so much experience in the management of house property, but undoubtedly it is entitled to a larger deduction for repairs than landed property. Assuming the deduction for repairs on landed property to be 12½ per cent., I would put those for house property at 20 per cent. Here again there is no doubt the greatest difference as betwixt the different classes of house property; but it would be impossible to go into all this.

I may mention, for the information of the Committee, in case it has not been stated, that in the settlement with the Inland Revenue for the Succession Duty on heritable property we have occasion to consider the question of repairs. In calculating the Succession Duties on landed estate and house property, the duty is ascertained by valuing the life interest of the successor in the free rental. We, therefore, exhibit the gross rental, and then deduct stipends, taxes, &c. The Inland Revenue also allow a deduction for repairs. They have no absolute rule as to this, but each case is separately considered; and after considering any statement laid before them, they intimate the rate which they will allow. We have in practice got deduction for repairs, varying from 5 per cent. and upwards, according to the nature of the property. The officers of the Inland Revenue are not granters of propositions, and it is very difficult in dealing with them to get proper allowances in any settlement of duties, and I mention the above rates, not as indicating what the deductions should be, but as showing that they admit the principle. The term used in the Succession Duty Act is that in estimating the annual value, "allowance shall be made of all necessary outgoings."

I may further state that I have known cases of settlements between parties where it was desired to ascertain the average free rental of an estate; as for instance the propelling of an entail where the propellor was to receive an annuity equal to the free rental, and that the average in such cases has been assumed fully higher than the rate I have stated; in the last case of which I am cognizant, the average was taken at 15 per cent.

In regard to the assessment for railways, I think it would be very desirable if some general rule were fixed as to the deductions to be allowed from their gross valuation in respect of their assessment for poor rates, and not to leave this as it now is, to be a subject of contest in every parish. Further, I think there is a practical absurdity in making them liable for the building of manses, churches, and schools, and for which they ought to be relieved, at least beyond the actual value of the

the *solum*. In so far as they are now assessed for poor's rates, police, &c., I cannot see that they have any claim for relief.

In conclusion, I may state in explanation, that the deductions I have stated, which amount in all to 21 per cent., by no means represent the whole deductions from the landowner's rental before it reaches his pocket or his bank account. If he makes large improvements by draining, trenching, or otherwise, he may reckon on an increased rental, and I do not take these into account. But I make no deductions for allowances to tenants, which are always occurring more or less, for fire insurance, for management, for the maintenance of residences and woods, where these are not a source of revenue, which is seldom the case. I have long been satisfied that there is no more common error than as to what is the actual free proceeds of landed property. The result of my experience is, that without making any deduction for jointures or debts, no landed proprietor actually receives, one year with another, more than two-thirds of his gross rental.

I remain, &c.
(signed) *T. G. Murray.*

A. Murray Dunlop, Esq., M.P.,
Chairman of Select Committee on Valuation
of Lands and Heritages (Scotland).

Appendix, No. 11.

App. No. 11. PAPERS handed in by Mr. *James Donaldson*, 8 May 1865.

RENTAL of Glasgow within Parliamentary Burgh, 1863–64.

	£.	£.
Dwelling houses under 4 *l.*	68,702	
4 *l.* and under 10 *l.*	295,569	
10 *l.* and under 20 *l.*	184,302	
20 *l.* and under 30 *l.*	64,736	
30 *l.* and upwards	200,414	
		813,723
Shop, warehouses, offices, counting-houses, hotels, banks, &c.		521,792
Mills, manufactories, workshops, &c.		189,757
Gas and water works, and Clyde navigation		86,352
Land and minerals		8,253
Railways and canals		26,506
		1,646,383
Unoccupied property		65,208
	£.	1,711,591

REPAIRS.

Situation and Description.	Rent.	Average Repairs.	Per Centage.
Dwelling Houses:	£. s. d.	£. s. d.	
Buchanan-street and Cathcart-street:—Dwelling houses in flats, 20 *l.* and upwards, and three small counting houses	340 – –	64 – –	19·044
West Regent-street, &c.:—Dwelling houses in flats and shops, and counting houses, rents of dwelling houses 30 *l.* and upwards	1,580 – –	265 – –	16·778
Hutcheson-street:—Dwelling houses and shops, rents of houses from 12 *l.* to 20 *l.*	283 – –	63 16 –	22·152
Bridge Gate and East Clyde-street:—Dwelling houses and shops; 21 houses under 4 *l.*; 78 houses, 4 *l.* and under 10 *l.*; 25 houses, 10 *l.* and under 20 *l.*; 7 shops, 163 *l.*	1,143 – –	135 – –	11·854
Nicholson-street:—Small dwelling houses, 15 under 4*l.*, and 31 at 4 *l.* and under 10 *l.*	260 – –	53 18 –	20·730
Parliamentary Road:—Small dwelling houses and two shops; 43 houses at 4 *l.* and under 10 *l.*, and two small shops 38 *l.*	286 – –	35 7 –	12·342
Old Vennal Havannah, &c.:—Small houses, 47 under 4 *l.*, 26 at 4 *l.* and under 10 *l.*	254 10 –	44 18 7	17·625
Sidney-street:—Room and kitchen houses, and six shops; 23 houses under 4 *l.*, 44, 4 *l.* and under 10 *l.*, 369 *l.*; 6 shops, 127 *l.*	540 – –	39 11 –	7·324
Green-street, Calton:—Small dwelling houses, 8 houses under 4 *l.*; 44 houses, 4 *l.* and under 10 *l.*	160 – –	32 13 8	20·406
South Coburg-street:—Small dwelling houses, 77 under 4 *l.*; 39, 4 *l.* and under 10 *l.*; one shop and dwelling house, 26 *l.*, and 4 stables	566 – –	107 – –	18·948
Douglas-street:—First-class dwelling houses, in flats, rents 35 *l.* to 70 *l.*	660 – –	101 8 –	15·370
High-street:—Dwelling houses, rents from 9 *l.* to 15 *l.*, and shop under same	450 – –	70 6 –	15·622

Situation and Description.	Rent. £. s. d.	Average Repairs. £. s. d.	Per Centage.
South Cumberland-street:—12 dwelling houses, 10 *l.* and under 20 *l.* 157 *l.*; four shops, 73 *l.*	230 – –	31 12 8	18·948
Ark-lane:—Small dwelling houses, brick and stone, rents, 2 *l.* 10 *s.* to 5 *l.*; 11 under 4 *l.*; 27, 4 *l.* and under 10 *l.*	164 – –	33 1 –	20·121
Duke-street:—Dwelling houses, five houses 4 *l.* and under 10 *l.*; 23 houses, 10 *l.* and under, 20 *l.*	310 – –	64 17 –	20·919
Garscube-road, &c.:—Dwelling houses, rents 6 *l.* 10 *s.* to 7 *l.* 10 *s.*, and six small shops	678 – –	127 2 –	18·746
Montieth-row:—Dwelling houses, rents 15 *l.* to 30 *l.*; six shops, 115 *l.*	780 – –	138 2 –	17·705
Drygate:—Dwelling houses, rents 4 *l.* to 13 *l.* 5 *s.*	180 – –	37 – –	20·555
Bath-street:—36 dwelling houses; these are flatted houses of the best class, rents from 40 *l.* to 60 *l.*; rental about 2,000 *l.*	– –	– –	12
Cowcaddens:—Dwelling houses of two rooms and kitchen, rents 13 *l.* and 14 *l.* average	– –	– –	9
Garnet-hill:—Dwelling houses of the best description in flats, rents 30 *l.* to 40 *l.*	315 – –	53 11 –	17
Commerce-street:—Small dwelling houses and shops, houses 8 *l.* to 10 *l.* 10 *s.* £. 170			
Houses, 4 *l.* to 8 *l.* 400			
Shops, 10 *l.* to 30 *l.* 80			
	650 – –	97 10 –	15
Centre and Dale-street:—Small houses and nine shops, 33 houses under 4 *l.*; 30 houses, 4 *l.* and under 10 *l.*; 2 houses, 10 *l.* and under 20 *l.*; 9 shops, 78 *l.*	364 – –	55 16 –	15·329
Cumberland-street:—Dwelling houses and shops, 2 houses under 10 *l.*; 13 houses, 10 *l.* and under 20 *l.*; 3 shops, 101 *l.*	305 – –	39 16 –	13·049
Garscute-road:—Small dwelling houses and shops, 24 houses, 4 *l.* and under 10 *l.*; three houses, 10 *l.* and under 20 *l.*; two shops, 39 *l.*	232 – –	26 2 –	11·29
Brown-street:—Small dwelling houses, rents from 3 *l.* to 12 *l.*; one house under 4 *l.*; 18 houses, 4 *l.* and under 10 *l.*; one house, 10 *l.* and under 20 *l.*	120 – –	15 14 –	13·083
Gloucester-street:—Small houses, rents from 6 *l.* to 8 *l.* 10 *s.*, and two small shops; 19 houses, 4 *l.* and under 10 *l.*; two houses, 10 *l.* and under 20 *l.*	173 – –	24 13 –	14·219
Shops, Warehouses, and Counting Houses:			
Buchanan-street:—Shops, warehouses, and counting houses	560 – –	8 10 –	1·517
Renfield-street:—Shops and warehouses	600 – –	36 – –	6
There was laid out on this property besides the ordinary repairs a sum of 400 *l.* on alterations to suit new tenants.			
Queen-street:—Shops and warehouses, rental about 1,950 *l.*	– –	– –	7·260
Ingram-street:—Shops and warehouses, rental about 2,300 *l.*	– –	– –	5·00
Large sums have been expended on these two last properties on alterations to suit new tenants. These sums would be equal on an average to double the above per-centage.			
Gordon-street:—Shops and counting houses	515 – –	31 7 –	6·087
Montrose-street:—Warehouses and calender, tenant of calender bound to keep up machinery	636 – –	36 3 –	5·683
Dixon-street:—Shops and counting houses	366 – –	9 10 –	2·609
Bath-street and West Nilett:—Shops and counting houses	316 – –	21 10 –	6·803
Queen-street:—Shops, warehouses, and counting houses	760 – –	42 10 –	5·600
During the last two years there was in addition to the ordinary repairs, a sum of 120 *l.* laid out on alterations to suit tenants not included above.			

App. No. 11.

Situation and Description.	Rent.	Average Repairs.	Per Centage.
Shops:	£. s. d.	£. s. d.	
Irongate street:—Two single shops - - - -	97 10 -	1 19 2	2
Argyle-street:—Shop - - - - - -	75 - -	1 3 -	1·533
Argyle-street:—Shop - - - - - -	105 - -	1 12 -	1·523
Gallowgate:—Shop - - - - - - -	40 - -	1 13 -	4·250
The ordinary insurance on house property in Glasgow averages from two to three per cent. on the rental.			
The police, statute labour, prison, and other local rates, including public water rate on house property in Glasgow, exclusive of poor rates, amount on rents—			
Under 4 *l.* to 2½ per £. equal to - - - -	- -	- -	1·048
4 *l.* and under 10 *l.*, 1 *s.* 3 *d.* per £., equal to	- -	- -	6·250
10 *l.* and upwards, 1 *s.* 10 *d.* „ „ -	- -	- -	9·166
Landlords' proportion of these rates 1,048 *l.* per cent.			

Poor Rates.

The deduction allowed from the rental by the several Parochial Boards in Glasgow for repairs, insurance, and taxes, are as follows:—

City Parish of Glasgow:—20 per cent. on all properties; rate of assessment 7½ per cent. on reduced rental.

Barony Parish:—20 per cent. on house property and 15 per cent. on lands and minerals; rate of assessment 7 per cent. on reduced rental.

Govan Parish:—12½ per cent. on house property and 7½ per cent. on lands; rate of assessment 3½ per cent. and one penny per £.

Gorbals Parish:—10 per cent. on all property; rate of assessment this present year 17½ per cent. or 3 *s.* 6 *d.* per £.; last year rate 14 per cent.

One-half of the poor rates in each of these parishes is paid by the owner, and the other by the occupier.

Appendix, No. 12.

Appendix to the Evidence of Mr. *Archibald Paterson.*

Having been unexpectedly called upon to give evidence before the Honourable Committee, and as my evidence immediately followed that of Mr. Menzies, who, as agent for Messrs. Alex. Cowan & Sons, paper makers, made some statements which represented my conduct as assessor for the county of Edinburgh rather unfavourably, I applied to the Committee for permission to make a statement in reply to that evidence, and having been granted that permission, I now submit the following remarks:

Messrs. Cowan, though they have lodged appeals against my valuations of their mills nearly every year since the passing of the Act, have never followed these up, until last year, when it was resolved by the Commissioners of Supply and Messrs. Cowan, that skilled witnesses should be examined on both sides, so that the whole matter of complaint should be thoroughly investigated. Counsel were also employed by both parties to conduct the trial: and after a long and patient hearing of the case, the valuation as made by me was unanimously confirmed by a large bench of Commissioners.

To show that the complaints of the Messrs. Cowan are based on fallacies, I beg attention to the following remarks on some portions of the evidence of Mr. Menzies, as their representative.

Question 742. It is stated that the mills consisted originally of a French prison, and that they are very large and detached, &c.

Now the mills referred to consist of three mills, two of which appear to have been built for the purpose to which they are now applied. A portion of the buildings of the other mill was originally a prison, but since then this had been entirely remodelled to render it suitable for a paper mill, and at present they are making large additions to it.

It is further stated in the same answer that they got a plan prepared of a mill sufficient to do the work done at Valley Field, and found it would occupy only three-fourths of the space which the present work occupies, the cost of construction would be 20 *s.* per square yard of floorage. This statement is intended to imply that if Messrs. Cowan were to erect a new and compact mill capable of performing an equal amount of work as their present mills, they would in that case be valued for the new work at one-fourth less than the valuation of the old mills.

The best answer to this hypothetical case is a reference to an actual case of another paper maker who has erected a mill in the neighbourhood capable of doing no more work than Messrs. Cowan's. The cost of the building on it has been above 17,000 *l.*, while the Messrs. Cowan's estimate for the buildings for this hypothetical mill which they produced at the appeal court was only 7,000 *l.*

Question 744. It is there stated, in answer to the question, "Are there no mills the rent for which is solely for the heritable subject?" App. No. 12.

Answer. "There is one or two in the county. There is Kate's Mill, which I may mention. It was let formerly upon a long lease of a greater duration than 21 years, so that under the Valuation Act, the rent which was actually paid for it was not the criterion in fixing the valuation. The assessor at that time fixed the annual valuation of it at 337 *l.* 9 *s.* 6 *d.* It has now been actually let, and taking into account the steam power, which is the property of the tenant, and is allowed to be assessable, and adding that to the amount of the actual rent, the rent produced is only 225 *l.* as against 337 *l.*, the rent formerly fixed by Mr. Paterson when it was let on a long lease."

This mill had formerly been let on a long lease to Messrs. Cowan. The buildings at the end of the lease were in a very dilapidated condition, the whole machinery belonged to the lessees; the subject which I valued was not the same subject that was let. The subject let by the proprietor was the ground, the old buildings, the waterfall, and some pure water; all the fixed machinery, that connected with water as well as steam, belonged to the lessees; and besides this, the conditions of the lease were most unfavourable to the lessees; they took upon themselves the burden of repairing and rebuilding where necessary, keeping and leaving in repair all the buildings, and leaving them in good condition at the end of a 19 years' lease, so it is evident the rent paid by them for the part of the subject let to them by the proprietor is no criterion of the value of the subject occupied by them under the old lease.

Question 746: "That 7½ per cent. deduction you mention he made in another mill for moveable machinery you do not think enough?"—Answer: "To show the fallacy of that valuation we got a valuation made of the buildings, and of the heritable portion of the machinery, and by taking the converse of his system, by valuing the buildings and heritage portion merely at 7½ per cent., and deducting that from the gross rent, we brought out a rent on the moveable machinery which amounted to 13 to 14 per cent."

In a pamphlet which Mr. Menzies put in he gives the figures in this case, by which it appears that the fallacy lies in his having made much too low a valuation of the heritage, and omitted many things belonging to it altogether; for instance, he has nothing for ground rent, damheads, pure water, reservoirs, bringing in pure water, &c.

In the same pamphlet he attempts to prove the same thing; viz., that I have allowed too little for the rent of the moveable portion, but in doing so has admitted that 7½ per cent. on the value of the moveable machinery is enough; but here again

App. No. 12.

he takes 4,900 *l.* as the value of the moveable machinery, and after a process of deductions, &c., he comes to the conclusion that 371 *l.* 13 *s.* should be the sum allowed for the yearly rent of the above sum of 4,900 *l.* (which is little more than 7½ per cent, upon it); but the fallacy here is in taking 4,900 *l.* instead of 2,560 *l.*, the value of the moveable machinery according to an inventory and valuation appended to the lease, which if he had taken would have come to nearly the same sum I have deducted.

There are many other statements in the pamphlet, which I would have wished to reply to; but as it does not appear it is to be printed or appear with Mr. Menzies' evidence, it is not necessary to trouble the Honourable Committee with any reply except to those statements which are embodied in the evidence.

I have since I was before the Committee considered the question more immediately connected with the investigations of the Committee, viz., as to whether or not any system could be adopted whereby assessments would be more equitably imposed than at present.

I have come to be of opinion that, taking every thing into account, assessments upon the gross rental would be as near justice, and more easily applied than any other.

It might be necessary in any new Act to give instructions to or provide that the assessor of railways, gas-works, &c., make his valuations in such a way as to leave for upkeeping a sum or per centage as nearly as possible equal to that required for other kinds of property, or what a tenant would give for it, and in an ordinary way, keep up the subject. This, to a certain extent, is done by assessors at present with manufactories; they are generally valued at such a sum as a tenant would give for them and keep them up, and when let, the rent at which they are entered in the valuation roll is that at which they are let.

For instance, 7½ per cent. is generally taken on the value of machinery as the rent, but no person would ever think of letting machinery for such a per centage unless the tenant kept it up.

Arch. Paterson.

Meadowfield, Corstorphine,
13 May 1865.

I N D E X.

[*N.B.*—In this Index the Figures following the Names of the Witnesses refer to the Questions in the Evidence; those following *App.* to the Pages in the Appendix; and the Numerals following *Rep.* to the Pages in the Report.]

A.

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3. *Valuation of Stations.*
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5. *Railway Premises let or leased to Tenants.*
6. *Question as to the Assessor supplying particulars of his Valuations.*
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10. *Practice in the case of English Railways:*

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10. *Practice in the case of English Railways*—continued.

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